



# THE KING AND THE IMPERIAL CROWN

The Powers and Duties of His Majesty

BY

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*IN MEMORIAM*

MARGARET BALFOUR KEITH



## PREFACE

It is the conviction of the public in the self-governing Dominions of the Crown that the Governor-General in matters official serves no more distinguished purpose than that of a "rubber stamp." Goldwin Smith popularised the idea in Canada so effectively that the sudden assertion in 1926 of the rights of the Crown by Lord Byng came as a dangerous innovation and excited a measure of disapproval which it proved difficult to explain to observers in the United Kingdom. Since that date a vital change has been effected in the position of the Governor-General. By a decision of the Imperial Conference of 1930 he ceased to be the independent head of the Dominion government and became the nominee of the Dominion government, subject to removal at the pleasure of that government. There has therefore come to pass a position in which in truth the representative of the Crown may be said to have no possibility of exercising authority outside the social sphere.

But the Crown in the United Kingdom occupies a very different position. The Governor-General is a transient phantom ; amid the flux of ministries the king remains, gaining in experience and judgment with the passing of the years. The Governor-General has but scanty sources of knowledge to guide him in crises ; the king has access to a vast store of carefully

recorded precedents, to the guidance of a highly trained and most competent secretariat, and to the advice of elder statesmen not immediately implicated in the party strife of the day. To these grounds of strength there must be added the vital fact that the king is not merely the sovereign of the United Kingdom but also of the Dominions; British ministers in all their dealings with the sovereign must bear in mind that any derogation from the position of the king due to their attitude must cause resentment in the oversea territories of the Crown.

The influence which the Crown may thus exercise in public affairs is unquestionably great; how far it extends depends largely on the personality and interests of the sovereign. It is the aim of this book to trace in the various fields of governmental activity the share of the business which falls to the Crown; to note the spheres in which by practice personal intervention is excluded, and to deal at length with all those matters in which the king is necessarily or at his discretion involved. The relation of the king to the formation and working of ministries, to the dissolution of Parliament, to the maintenance of the Constitution, to foreign affairs and defence, and to the prerogatives of honour, justice and mercy, must be discussed as well as the title to the Crown, the coronation which imparts the sanction of religion and popular recognition, and the position of the royal family. From the people the king receives allegiance; in return he accords justice and protection; with him his ministers must take counsel in cases of emergency. Last, not least, must be dealt with the position of the king in the Empire or Commonwealth, and we must

consider the nature of the tie between the several units which constitute it. Is the bond one of international or constitutional character; does it permit the neutrality of a unit when the United Kingdom is at war; is it compatible with the right of secession at the will of a unit? These questions have been raised by responsible ministers of the Crown, and it is idle to evade discussion.

These are subjects which for the most part are but briefly dealt with in Constitutional Histories. The most reliable material is that presented in the *Letters of Queen Victoria*, especially when read in the light shed by the numerous biographies of the statesmen of her reign. Sir S. Lee's *Life of King Edward VII* is singularly rich in useful notes, though it is not always possible to share his view of the constitutional aspect of the matters discussed. For King George V's reign we must necessarily wait long for full information, but certain conclusions can already be drawn with reasonable certainty. In other cases conjecture is necessary but within bounds legitimate.

A. BERRIEDALE KEITH.

THE UNIVERSITY OF EDINBURGH,  
April 25, 1936.



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# THE KING AND THE IMPERIAL CROWN

## CHAPTER I

### THE TITLE TO THE THRONE

ACCUSTOMED as we are to think of the kingship as C hereditary, it must be remembered that in England we must look rather to election as the basis of kingship. In Saxon times the Witan, representing the development of the more ancient practice of choice by the armed manhood of the tribe, elected the king. In their choice they had come to be limited by custom to a member of the royal family, until the military prowess of Canute compelled his selection, but election was the vital element. From the ceremonial of the coronation the elected gained spiritual confirmation and strengthening for the performance of his duties ; from the oath of fidelity then taken by the nobles he won assurance of effective backing for his legal and religious claims. But the hereditary element gained force from the rapid spread of feudal ideas to which the Norman Conquest gave decisive direction and from the gradual evolution of more settled conditions of society. It became inevitable to assimilate the descent of the Crown to that of an estate in fee simple with such differences only as considerations

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of practical needs rendered wise. Thus it was plainly impossible to contemplate the possibility of women succeeding as coparceners, and the law of primogeniture was applied as between men to women; hence, should no son be born to the Duke of York, after him the succession to Edward VIII rests with Princess Elizabeth in preference to Princess Margaret. Moreover, since a son is always preferred to a daughter, a princess can never be heir apparent, but only heir presumptive, seeing that English law, for once departing from the paths of common sense, knows no age at which the birth of a child can be ruled impossible. A second deviation from the law as to land was admitted by negating the rule that the inheritance does not pass to the half-blood. Thus Edward VI was succeeded by Mary and she by Elizabeth, though the succession was also provided for by statute.

The respect due to hereditary right is seen in the succession of Henry III and especially of Richard II, a minor who had uncles of full age and capacity who might in the public interest have been held more fit to govern. But the depositions of Edward II and of Richard II illustrate the converse side of election, for the new organisation, Parliament, which replaces the Witan or the Commune Concilium of the earlier monarchs, asserts successfully the right to depose the king. But Henry IV was far from willing to abandon the glamour of hereditary right. Not only was he elected by the estates of the realm, not only did the barons transfer to him the fealty and allegiance which Richard II resigned and Parliament settle the Crown on him and his heirs, but he asserted his right by descent from Henry III, a claim tenable

only on the theory that Edmund Crouchback, the second son of that monarch, was in truth his elder son. This respect for the potency of heredity must have seemed confirmed when Edward IV succeeded in establishing his claim, based on the fact that he was the nearest male representative of the eldest surviving line of Edward III, and overthrew the statutory claim of Henry VI. Henry VII relied both on hereditary right and on Parliament, which gave him a statute settling the Crown on him and the heirs of his body. Henry VIII in his complete command of Parliament went further, for he obtained the singular power to devise the Crown by will, and therein he disinherited, on failure of issue of his children, his elder sister Margaret and her issue. Heredity, however, again triumphed when James of Scotland, great-grandson of Margaret and the reckless king who fell on Flodden Field, succeeded to the throne by hereditary right, as was admitted in the Act of Recognition which Parliament passed and which further established his claim.

This dispensation of providence was destined to prove unfortunate for the house of Stuart, for it lent force to the growth of the two dangerous doctrines which ultimately ruined that ill-fated house : the belief in the divine right of kings, and in the fathomless depth of the prerogative royal vested for the weal of the Commonwealth in these instruments of divine guidance. Convinced of the existence of these rights James II proceeded to defy the discontent of his subjects until the desertion of Churchill, an act of unpardonable but characteristic treachery, and the policy of William of Orange resulted in his fatal flight.

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The situation created by his action was a most painful one for the believers in right divine, and presented a really serious constitutional problem until it was solved by common sense. The Prince of Orange took upon himself to summon a Parliament, regular in all save the mode of its convocation, and that body took the sensible view that the king must be held to have abdicated by his departure from his realm, and that the throne was vacant. This assertion, of course, was a definite and serious departure from the doctrine of hereditary right and the rules of descent of an estate in land, for of that there could not be a vacancy, and Parliament asserted the right to ignore the rights of James's innocent child, whom doubtless many of the members of both Houses were willing to believe no real child of the Queen's. The vacant throne was then disposed of in a novel manner, for William insisted that he would not be his wife's gentleman usher—which would indeed have been a very different role from the strict supervision which he had always exercised over his loving bride—and the Crown was, therefore, offered to William and Mary jointly, and then to the survivor, but on the condition that the sole and full exercise of the royal power should be executed during his life by William. For the succession the Bill of Rights in October 1689 provided by according it in order to the children of Mary, of Anne, and then of William. Not one, however, of these three was destined to leave a child, and in 1701 when Mary was dead, William dying, and Anne was plainly fated not to leave a child, a new disposition became necessary. It was made by Parliament without regard to hereditary rights. It passed over the issue

of Henrietta, daughter of Charles I, to whom the throne would have descended on the death of the last of the descendants of James II in 1807 ; it ignored the claims of Charles Lewis and Edward, brothers of Princess Sophia, and awarded the succession to that lady, whose claim rested on the fact that she was daughter of Elizabeth, Queen of Bohemia, the luckless daughter of James I, and to her issue, being Protestants. The qualification was essential and explained why the choice fell on the aged if vivacious Electress and Dowager Duchess of Hanover, who was disappointed of her hope to wear the Crown, and by her tactlessness nearly endangered the succession. In fact Anne outlived her, and on her death in 1714 the skill of the Whigs secured for the son of Sophia the imperial Crown. From George I it passed lineally to George IV, then to his brother, William IV, to his niece Victoria, and from her to Edward VIII, whose heir presumptive is the Duke of York.

The title is no longer held unconditionally. It pleased Parliament in the Act of Settlement to name definite conditions. Any person who shall be reconciled to or hold communion with the Church of Rome, or shall profess the Popish religion, or shall marry a Papist, is excluded from the inheritance, possession and enjoyment of the Crown. Moreover the people are discharged from allegiance to such a person, and the Crown descends to the next in the line of succession as if the former holder were dead. The enactment lacks precision : a "Papist" is not defined, though it may be presumed that a person who holds communion with the Church of Rome or professes the Popish religion is meant, and there is



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absolutely no provision for any body to determine when the condition is violated and the people are absolved from their allegiance. But it makes it plain that no Roman Catholic may hold the throne, and it is certain that none of the line since George I has had any leanings towards that faith. Queen Victoria, in September 1879, asserted with vigour and precision her conviction that the Church of Scotland was the real and true stronghold of Protestantism,<sup>1</sup> and her liking for the simple services of that Church was patent and pleasing to her subjects in her highland home in Scotland.

A less exacting condition compelled the sovereign to make at the first day of the meeting of the first Parliament or at the coronation, whichever first happened, a declaration against transubstantiation. It was doubtless a wise condition to impose at a time when there was a vivid memory of the disadvantage of a Catholic king and just fear might be felt of a prince who simulated acceptance of the Anglican faith while like Charles II a Catholic at heart. But it is easy to sympathise with the feelings of Edward VII<sup>2</sup> when he was required on February 14, 1901, before reading his speech from the throne in the House of Lords, to repeat a declaration which denounced the adoration of the Virgin Mary and the sacrifice of the Mass as superstitious and idolatrous, and he endeavoured earnestly to have this duty modified. He agreed with Lord Salisbury that there must be a declaration, and was strongly opposed to giving any excuse for the raising of the cry "No Popery"; his

<sup>1</sup> *Letters*, ser. 2, iii. 47; cf. i. 376-8.

<sup>2</sup> Lee, *Edward VII*, ii. 22-5.

aim was the exclusion from it of all matter needlessly offensive to his Roman Catholic subjects. But reform was not easy ; Lord Halsbury was hard to move and Lord Salisbury had lost driving power ; an unsatisfactory Bill passed the Lords, but pleased no one, so that it was never taken up in the Commons. The remedy was left for the Parliament and government of 1910, which enacted the Accession Declaration Act, and required the king to say only : " I do solemnly and sincerely in the presence of God profess, testify, and declare that I am a faithful Protestant, and that I will according to the true intent of the enactments which secure the Protestant succession to the Throne of My Realm uphold and maintain the said enactments to the best of my powers."

The Act of Settlement further requires that the king shall take the coronation oath provided in the statute of William and Mary of 1689, and that he shall enter into communion with the Church of England, thus giving his religion a positive tinge. But the exact form of the oath of 1689 has necessarily been modified to meet the fact of the union with Scotland established in 1707, and the disestablishment of the Irish Church by the Irish Church Act, 1869. The Union with Scotland Act, 1707, expressly safeguarded the position of the Church of England and the Presbyterian Church of Scotland, by requiring that every person who succeeds to the throne shall take and subscribe oaths for their preservation. The former oath is now taken as part of the coronation service ; that for the preservation of the Church of Scotland is taken by the king at the meeting of the Privy Council which follows immediately after the

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declaration of his accession ; it is subscribed in duplicate, one part being solemnly recorded in the Books of Sederunt of the Court of Session and lodged in the Public Register, while the other part remains as a record of Council. Here again time has brought changes, for the passing of the Church of Scotland Act, 1921, has conferred on the Church the utmost freedom from the control of the civil power. Hence Edward VIII swore, on January 21, 1936, merely to maintain the settlement of the Protestant religion as established by the laws made in Scotland and the Union Acts together with the Government, Worship, Discipline, Rights and Privileges of the Church of Scotland. There were not wanting critics who lamented this seeming diminution of the recognition of the Presbyterian Church as established, but plainly the issue was merely one of form.

The Union with Scotland Act, 1707, established for the United Kingdom the line of succession which had been enacted in the Act of Settlement. The fear that on the death of Anne the two crowns might be severed had been a potent motive to induce the policy of union. The Union with Ireland Act, 1800, applied the same rule to the United Kingdom of Great Britain and Ireland, making the preservation of the United Established Church of England and Ireland an essential feature of the union, but that element of the situation has disappeared.

The possessions of the Crown outside the United Kingdom, though included in the settlements of the Crown, received originally no recognition whatever in the royal title, but the development of the importance of the oversea territories led to the passing of the

Royal Titles Act, 1901, which authorised the Crown to make such addition to the existing style as seemed fit. The use of statute for this purpose is interesting ; earlier it seems to have been deemed unnecessary to have the authority of Parliament for change. The title was then proclaimed as of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, King. The division of the United Kingdom clearly rendered this style inaccurate, and in 1927, under the authority of the Royal and Parliamentary Titles Act, 1927, the necessary change was made to Great Britain, Ireland and the British Dominions beyond the Seas.

India received recognition at an earlier date. When the rule of the Company was extinguished in 1858, it would have been natural to accord to the Queen expressly the style of Empress, thus showing formally that the ruler claimed the same supremacy as had been vested in the Mogul Emperors, who were known in the days of the Company as Kings of Delhi. Mr Disraeli seems to have had some idea of such action, but the Queen seems not to have been interested at the time, and it was only in 1873 that we find Sir H. Ponsonby suggesting to Lord Granville that the Queen might well assume the imperial title.<sup>1</sup> But it was left to Mr Disraeli to carry the necessary legislation,<sup>2</sup> against a measure of opposition with which it is hard to sympathise. The propriety of giving the style of Empress of India seems now obvious, and it is clearly a mistake to suggest that the title did nothing to increase the popularity of the Crown in

<sup>1</sup> *Letters*, ser. 2, ii. 238.

<sup>2</sup> 39 Vict. c. 10.

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India. The durbar at which, on January 1, 1877, the title was proclaimed was marked by special brilliance, due to the skill and tact of Lord Lytton, whose talents shone with special brightness on such occasions, and it evoked from the leading princes emphatic approval.<sup>1</sup> After all it was plain that it was treating the Indian Empire with scant respect to ignore its possession in the royal style. The princes had been required by Lord Canning to recognise the duty of loyalty to the Crown, and this was transmuted into a feeling truly personal by the assumption of the title, and of course in far stronger degree when it was possible for the King himself to visit India in 1911-12 to receive the homage of the princes.

The title still includes the term Defender of the Faith. It was, of course, the reward of the energy shown by Henry VIII in defending the Christian religion in the period before his love for Anne Boleyn estranged him from his wife and drove him to break with a Pope who was willing, it seems, to permit bigamy but who could not for political causes of a prevailing weight accept the declaration as void of the marriage of the king. Henry, however, was not in the least inclined to sacrifice so fine sounding a style, and it was confirmed to him by the Parliament<sup>2</sup> which up to the last was subservient to his wishes whenever these were definitely expressed.

On the other hand the claim to the Crown of France, though firmly reasserted in the Act of Settlement, was allowed to disappear from the royal title by George III.<sup>3</sup> It had, of course, long ceased to be

<sup>1</sup> *Letters*, ser. 2, ii. 460-3, 514, 515.

<sup>2</sup> 35 Hen. VIII, c. 3.

<sup>3</sup> Proclamation, January 1, 1801.

anything save an idle style historically innocuous, but on the other hand its retention had nothing to commend it. From 1714 the king was also Elector of Hanover, but the feeling of English superiority negated any subservience to the foreign interests of the Crown, and under George III at least it was plain that the interests of Hanover counted for little in British policy. George III showed himself almost amazingly uninterested in his continental possessions, though in 1815, in accordance with the contemporaneous movement in Germany as the result of the extinction of the Holy Roman Empire, he assumed the style of King. In 1837 the two Crowns were separated, as the result of the Salic law, and Hanover fell to the Duke of Cumberland. It is an interesting speculation as to what might have been the history of Germany had Hanover still remained in the hands of the British Crown. So long as the connection lasted, the obedience of the king's subjects in the United Kingdom was due to him as king thereof alone, in accordance with the historic precedent set in the reign of Edward III,<sup>1</sup> when it was enacted that the people and realm should not at any time be put in subjection of their sovereigns as kings of France.

The Great War brought about a change in the style of the royal house, up to that time known as that of Hanover or Brunswick. A royal Proclamation of July 17, 1917, preceded by a Declaration in Council, adopted the style of Windsor, rich in historical sentiment, as the name of the royal family, and the use of former German titles and dignities, Duke of Saxony and Prince of Saxe-Coburg and Gotha, was

<sup>1</sup> 14 Edw. III, stat. 3.

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at the same time renounced, other styles<sup>1</sup> being conferred in lieu on those who thus lost their foreign dignities. The result of this decision was to emphasise the unique position of the king and the royal family, and to bring out the single allegiance felt by all its branches to the person of the king.

But of far wider importance was the effect of the war in creating a new status for the self-governing Dominions, Canada, Australia, New Zealand, the Union of South Africa, the Irish Free State, and Newfoundland. The formal result of this equality was seen at the Imperial Conference of 1930, which procured the passing of the Statute of Westminster, 1931. The preamble to that measure formally declares that "inasmuch as the Crown is the symbol of the free association of the members of the British Commonwealth of Nations, and as they are united by a common allegiance to the Crown, it would be in accord with the established constitutional relation of all the members of the Commonwealth in relation to one another that any alteration in the law touching the succession to the throne or the royal style and titles shall hereafter require the assent as well of the Parliaments of all the Dominions as of the Parliament of the United Kingdom." The force of this declaration on the unity of the Crown will be considered later,<sup>2</sup> but it must be noted now as casting doubt on the power of the Parliament of the United Kingdom any longer to dispose of the Imperial Crown at its sole discretion. Doubtless the preamble is not a law,

<sup>1</sup> Earl of Athlone, and Marquis of Carisbrooke and Marquis of Milford Haven, representing the Teck and Battenberg lines.

<sup>2</sup> See chap. xvii. § 8.

and does not bind even formally Parliament, even if Parliament had the power so to bind a successor, which is not the case. But the constitutional doctrine laid down is of the highest importance, and there would be grave difficulty in the Houses of Parliament acting in future as they did in 1689. Happily the possibility of such action may be ruled out as requisite ; but the fact that Parliament has virtually limited its plenitude of authority as against the Crown is significant.

A further point arises out of the enactment. It seems undeniable that it imposes a new obligation on the king, and one of an unexpected character. Would it be constitutional for His Majesty to assent to a Bill to alter the succession or the royal style and titles, if that Bill were not being passed in accordance with the principle laid down in the preamble ? Or would he be bound by the spirit of the preamble and compelled to insist that he could not assent to such a Bill, unless the ministry had secured a clear mandate from the electorate for action despite the views of the Dominions or some of them ? Happily the issue is at present purely hypothetical, but any attempt at self-limitation by a sovereign Parliament must always create a constitutional anomaly. For, as Bacon<sup>1</sup> says, “ a supreme and absolute power cannot conclude itself, neither can that which is in nature revocable be made fixed. . . . And for the case of the Act of Parliament there is a notable precedent of it in King Henry the Eighth’s time, who, doubting he might die in the minority of his son, provided an Act to pass, That no statute made during the minority of a king should bind him or his successors, except it

<sup>1</sup> *Works* (ed. Spedding, Ellis and Heath), vi. 159, 160.



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were confirmed by the king under his great seal at his full age. But the first Act that passed in King Edward the Sixth's time was an Act of repeal of that former Act; at which time nevertheless the king was minor. But things that do not bind may satisfy for the time," and we may add in this case the motives for maintenance of the convention are of the strongest.<sup>1</sup>

The king is also Earl of Dublin, the title having been granted by Queen Victoria by letters patent of 1849 to the then Prince of Wales and his heirs. He is also by inheritance Duke of Lancaster, and, until there is born an heir apparent, Duke of Cornwall. But it is said that the titles merge in that of king. Lord James of Hereford in 1905 suggested that the title of Duke of Lancaster really did not descend with the Duchy, the lands of which since Edward IV have vested in the sovereign, but belonged to the descendants of John of Gaunt. The King was much displeased, and Lord James prudently suppressed his opinion.<sup>2</sup>

While the sovereign's title as Emperor of India was conferred on the understanding that its use was not intended to be adopted in charters, commissions, letters patent, grants, writs, appointments and other instruments not extending beyond the United Kingdom, it must be remembered that under Henry VIII<sup>3</sup> statutory effect was accorded to the fact that "this realm of England is an Empire, and so hath been accepted in this world, governed by one

<sup>1</sup> Keith, *Constitutional Law of the British Dominions*, pp. 38, 39. See *British Coal Corporation v. R.*, [1935] A. C. 500.

<sup>2</sup> Lee, *Edward VII*, ii. 298 n. 1.

<sup>3</sup> 24 Hen. VIII, c. 12.

supreme head and king, having the royal estate and dignity of the Imperial Crown of the same.”

The status of a queen regnant is identical with that of a king and her rights have never been affected by sex. This is provided for by the common law and has also been declared by statute.<sup>1</sup>

The king for the time being, even if an usurper, is a king regnant and enjoys the protection of the law of treason.<sup>2</sup>

<sup>1</sup> 11 Hen. VII, c. 1.

<sup>2</sup> 1 Mar. Sess. 3, c. 1 ; 52 & 53 Vict. c. 63, s. 30.

## CHAPTER II

### THE ROYAL ACCESSION AND THE CORONATION

#### 1. *The Accession to the Crown*

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— It is now an accepted doctrine that the king never dies in the sense that there is no interregnum. The moment the monarch expires, the royal dignity vests in the heir destined by Parliament. Regal power is therefore complete, but the ceremony of the coronation is not merely a form, an ornament and solemnity of honour, as Coke terms it, because the Act of Settlement, 1701, provides for the taking of the coronation oath as an essential part of the duty of the king, and he could not carry out this plain obligation effectively if the coronation ceremony were omitted. At the same time the ceremony serves as the occasion of the solemn recognition of the king by his people throughout his dominions, and affords him the occasion for solemnly assuring them of his determination to rule them according to their laws. Hence the coronation may be deemed of the essentials of monarchy.

The accession itself falls to be formally declared, and the usages observed are traditional, there being no statutory regulation. They suggest vividly the older practice of election by the Witan. George V died at 11.55 P.M. on January 20, 1936, at Sandringham, in the seventy-first year of his age and the twenty-sixth

of his reign. On the following day the Lords of the Privy Council assembled at St. James's Palace and gave orders for proclaiming the new King; the terms of the proclamation run :

“Whereas it hath pleased Almighty God to call to His mercy Our Late Sovereign Lord King George the Fifth, of blessed and glorious memory, by whose decease the Imperial Crown of Great Britain, Ireland, and all other his late Majesty's dominions is solely and rightfully come to the High and Mighty Prince Edward Albert Christian George Andrew Patrick David; We, therefore, the Lords Spiritual and Temporal of this Realm, being here assisted with these of His late Majesty's Privy Council, with Numbers of other Principal Gentlemen of Quality, with the Lord Mayor, Aldermen, and Citizens of London, do now hereby with one voice and consent of tongue and heart publish and proclaim that the High and Mighty Prince Edward Albert Christian George Andrew Patrick David is now, by the death of our late Sovereign of happy memory, become our only lawful and rightful liege Lord Edward the Eighth, by the Grace of God, of Great Britain, Ireland, and the British Dominions beyond the Seas, King, Defender of the Faith, Emperor of India : to whom we do acknowledge all faith and constant obedience, with all hearty and humble affection ; beseeching God, by whom Kings and Queens do reign, to bless the Royal Prince Edward the Eighth with long and happy years to reign over us.”

The proclamation was signed by the Dukes of York and Kent and Prince Arthur of Connaught, the Archbishop of Canterbury, the Lord Chancellor, the

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Prime Minister, the Lord President of the Council, the Speaker of the House of Commons, the Home Secretary, the Duke of Norfolk, the Earl of Granard, the veteran statesman Sir Austen Chamberlain, and a large number of other Privy Councillors, together with the Lord Mayor and Aldermen of the City of London. Copies were broadcast to local authorities throughout the realm, the King's accession was proclaimed at Edinburgh, the Scottish capital, and in other places, and the other capitals of the Empire were also the scene of announcements. The one exception was Dublin, but the President of the Council and the two houses of Parliament were prompt to express sympathy with the Queen and the new King in their bereavement; no one could really doubt that the King had regarded his Irish subjects with earnest good will or that it would have given him great pleasure, had it been possible to close the breach created, in part, by inevitable historical circumstances, in part by the failure of his predecessors to recognise their duty of residence in Ireland.

The ceremonial, moreover, marked in one significant detail the new constitution of the Empire, for present thereat were the High Commissioners for the Dominions and India, who thus took part in the proclamation of accession as the official representatives of the Dominions and the Indian Empire.

When the accession was proclaimed, those present other than Privy Councillors withdrew, and a Council was constituted which the King addressed, stressing his determination to follow in his father's footsteps in upholding constitutional government and in working for the happiness and welfare of all classes of his

subjects. Moreover he took and subscribed the oath, already mentioned, providing for the security of the Church of Scotland.

In accordance with the Succession to the Crown Act, 1707, Parliament immediately assembled ; it had gone into recess on December 20, and the period fixed for vacation had not expired, but automatically the death of the King required the reassembling of members to take the oath of allegiance to the new sovereign. On January 23 the Prime Minister in the Commons moved a resolution of condolence with the new King and the Queen, and of devotion to the sovereign on his accession ; he stressed in it the culmination of the political advance of the last century in the coming to terms of monarchy and democracy, and dwelt on the growth of the spiritual power of the Crown which had become " not only the link that held together the United Kingdom ; it held together the whole Empire of English-speaking peoples." The Lord Privy Seal in the Lords moved a like address, passed in either House without dissent, and the formalities of the recognition of the royal accession were complete.

Of the stately funeral of the late King, conducted with a ceremonial worthy of the sovereign and of the deep regrets of people who assuredly bore for him an affection far more genuine than that felt for Edward VII or Victoria, it is not necessary to speak, for it stands apart from constitutional interest. Spectators, however, noted with some surprise that no place was found in the procession of high officers and others for the Cabinet as an organised body, though, of course, ministers shared the march with

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other Privy Councillors. But the ceremonial followed older precedent, and it must be remembered that not until 1905 was the Prime Minister recognised as entitled to high precedence by virtue of his office ; hitherto he had enjoyed no ceremonial position accordant with his vital position in the framework of government, which marks him out as the representative of the will of the people for the administration of the affairs of the realm.

## 2. *The Coronation*

As we have seen, the coronation is no mere ceremonial of dignity and honour. It preserves within itself much of the history of the realm, and is of the highest interest not merely for the antiquarian and the lover of pageant but for the student of constitutional law.<sup>1</sup> The wise conservatism of the British people has secured that as little as possible of the ceremonial shall be omitted ; even the minor changes made on the occasion of the coronation of Edward VII, in order to lessen his fatigue in view of his recent recovery from serious illness, which had caused postponement of the rite, were not repeated when George V was enthroned.

The first element in the service, which for Edward VII took place on August 8, 1902, for George V on June 22, 1911, is the presentation of the king by the Archbishop of Canterbury, accompanied by the Lord Chancellor, the Lord Great Chamberlain, the Lord

<sup>1</sup> Thus on July 3, 1936, it was announced that the Dominions would take part in determining the ceremonial of the coronation on May 12, 1937.

High Constable, and Earl Marshal with the Garter King-at-arms. To the assemblage he says: "Sirs, I here present unto you King Edward, the undoubted King of this Realm: Wherefore, all you who are come this day to do your Homage, are you willing to do the same?" The people then signify their joy by loud and repeated acclamations; the boys of Westminster School are by tradition rehearsed beforehand to represent the part of the people in the shout of "God Save King Edward." The significance of the ceremonial is plain. It is a reminder of the old elective character of kingship,<sup>1</sup> recognised still in the medieval legal writers, Bracton and Fleta. The celebration of the litany and communion follows and a sermon is preached.

The coronation oath is thereafter administered by the Archbishop. The king solemnly promises to govern the people of the United Kingdom and the Dominions according to the statutes in Parliament agreed on and the respective laws and customs of the same; to cause law and justice in mercy to be executed in all his judgments; to maintain the laws of God, the true profession of the Gospel, and the Protestant Reformed religion established by law; to maintain and preserve inviolably the settlement of the Church of England, and the doctrine, worship, discipline, and government thereof, as established by law in England; and to preserve unto the bishops and clergy of England and to the Church there committed to their charge all such rights and privileges as by law do or shall appertain to them or any of them. The stress laid on the privileges and rights of

<sup>1</sup> A. Taylor, *The Glory of Regality*, pp. 15, 16.



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the Church of England strikes at first a curious note, but it must be remembered that the coronation oath was settled in the reign of William and Mary,<sup>1</sup> when the fidelity of the Crown to the Protestant faith had been seriously called into question, and that the statute which insists on its being especially safeguarded dates from the last days of William III, when men were desperately anxious to prevent the accession of a Roman Catholic to the throne.

The force of the oath is clear: it expresses a pact between the king and his people, a promise of good government and of obedience to law. This is a fundamental feature of the oath and of the settlement of the Crown in 1701. The Act of Settlement solemnly recites that the laws of England are the birthright of the people, and that kings and queens ought to govern according to them, and it ratifies them accordingly. It was because he had violated the pact between sovereign and subject that the Houses of Parliament took it upon themselves to pronounce invalid the retention by James II of the royal power. The obligation can be traced not merely to feudal times, when the whole of the business of the realm was based on contract, but to tribal kingship and the origin of the creation of the royal office.

The rite which follows is equally traditional, having been first performed for Egbert, son of the king of Mercia. But it is the revival of an older rite, well known in other parts of the world in many forms, the anointing of kings. The Archbishop anoints with consecrated oil the king in the form of a cross on the

<sup>1</sup> 1 Will. & Mary, c. 6; Wickham Legg, *English Coronation Records*, pp. xxviii, xxix.

crown of the head, on the breast, and on the palms of the hands.<sup>1</sup> In primitive religion <sup>2</sup> anointing conveys magic power ; in the Christian rite it accords, Thomas Becket assures us, glory, fortitude, and knowledge, or more generally the sevenfold gifts of the Holy Spirit. The anointing is the indispensable condition of the reception of the regalia.

Ceremonial garments are then put on the king, the colobium sindonis, albe or rochet, which is now sleeveless, and over it the supertunica, or close pall, a long-sleeved garment. The spurs and sword are then presented ; the latter signifies justice, protection to the defenceless, and punishment to offenders. The Archbishop hands it to the king, the Lord Great Chamberlain girds it on, it is then offered by the king at the altar ; it is redeemed at a fixed price from the Dean of Westminster, and borne for the rest of the ceremony by the lord who presented it to the Archbishop. The king is then invested with the pallium or imperial mantle, and presented with the orb with the cross which signifies that the whole world is subject to the Empire of Christ. The orb is then laid on the altar by the Dean of Westminster. Then the Archbishop places on the fourth finger of the king's right hand the ring, the ensign of the kingly dignity and of the defence of the Christian faith. Then the lord of the manor of Worksop presents a pair of gloves, and the Archbishop places in the king's right hand the sceptre with the cross, ensign of kingly power and justice, and in his left hand the rod with

<sup>1</sup> Wickham Legg, *English Coronation Records*, p. xxxiv.

<sup>2</sup> For this ancient magic spell, see Keith, *Religion and Philosophy of the Veda*, ii. 340.

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the dove, symbol of equity and mercy ; the lord of the manor supports the right arm or holds the sceptre.

The coronation follows. As the king sits in King Edward's chair the Archbishop places on his head the crown imperial brought from the altar. At sight thereof the people cry, "God save the King," the trumpets sound, and the great guns at the Tower are shot off. The peers put on their coronets. The choir sing an anthem, after the Archbishop has addressed the sovereign, bidding him fight the good fight of faith and lay hold on eternal life. Then the Archbishop presents the Bible, the most valuable thing that this world affords, wisdom, royal law and the lively oracles of God. When the king is thus anointed and crowned and the regalia have been presented, the Archbishop pronounces the Benediction and the *Te Deum* is sung.

The enthronisation follows. The king mounts the throne, being lifted thereon by the Archbishop and Bishops and other peers, and is bidden to stand fast and hold firm. The rite is old <sup>1</sup> and of magic power, for thereby the king wins the steadfastness of the stone. The name Kingston commemorates the ancient practice by which Saxon kings there were raised on a stone ; the Stone of Destiny which Edward I brought from Scone forms part of the chair on which the king sits for the anointing and coronation.

The time has now come for the homage of the spiritual and temporal lords, which is paid to the king still seated on the throne. To shorten the ceremony the Archbishop of Canterbury represents the episcopate, the heir to the throne the other

<sup>1</sup> There are many parallels for mounting a stone to secure firmness : see Keith, *op. cit.*, ii. 370, 386.

members of the blood royal, but in 1911 the Duke of Connaught as well as the Prince of Wales paid personal homage ; in each rank of nobility the senior member represents the rest, the Duke of Norfolk, the Marquis of Winchester, the Earl of Shrewsbury, Viscount Falkland, and Lord de Ros in 1911 ; all kneel during the ceremony. It is significant of the complete religious toleration in the land that, though the king is necessarily a Protestant, the premier duke should represent the most devoted Roman Catholic family of the realm.

Each lord who pays homage repeats the due words, touches the crown, and kisses the king's left cheek. The words differ for spiritual and temporal lords ; the former pledges faith and truth, the latter in more gallant phrase swears to " become your liegeman of life and limb and of earthly worship, and faith and truth will I bear unto you, to live and die, against all manner of folks. So help me God." The king then offers a pall or cloth of gold and a wedge of gold, a pound in weight, for is it not written : " thou shalt not appear empty in the sight of the Lord, thy God." The offering none the less falls not to Holy Church but may be claimed by the Lord Chamberlain. The *Te Deum* closes the solemn ritual.

If there be a queen consort, she may not claim as of right to be crowned, for the claim was ruled invalid in the case of the unlucky wife of the worthless George IV, but, if she is crowned, as were Queens Alexandra and Mary, the ceremonial falls to the Archbishop of Canterbury also. It was indeed performed in the former case by the Archbishop of York, but only by the special authority of his brother

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of Canterbury. Queen Mary was anointed on the head, a ring as the seal of faith was placed on the fourth finger of her right hand, she was crowned and invested with the two sceptres; the oblation she offered was an altar cloth and a mark weight of gold. When Queen Alexandra was crowned, the peeresses put on their coronets, and "their white-gloved arms seemed to make a frame to every face, and the beautiful effect was remarked even in that day of striking scenes."<sup>1</sup>

*Offices connected with the Coronation*

Antiquarian and historical interest attaches to the offices which have been claimed to exist and in part still exist in respect of the coronation procession,<sup>2</sup> the service in Westminster Abbey, and the banquet, if any, at Westminster Hall. Such offices are hereditary and either descendible in gross, or as attached to some title or office, or as appertaining to tenure of land in grand serjeanty; the abolition of the latter form of tenure by the Law of Property Act, 1922, is without prejudice to coronation office claims. The king may dispense with services, as was done in 1901, 1910, and 1936, when the coronation proclamations waived all services in respect of the procession or proceedings in Westminster Hall. Other claims are adjudicated upon now by a Committee of Claims, constituted under the great seal. Formerly the claims were heard by a Court of Claims under the Lord High Steward, but that office has merged in the Crown.

<sup>1</sup> Lee, *Edward VII*, ii. 109.

<sup>2</sup> Dropped like the banquet since George IV.

Of the offices claimed by inheritance in gross the one of most importance is that of Lord Great Chamberlain. The honour is shared between three representatives of co-heiresses, Lord Cholmondeley, Lord Ancaster, and the representatives of the late Marquis of Lincolnshire. The first-named holds office in alternate reigns, the others in one reign out of four ; Lord Lincolnshire held office until 1928, when he died without a son, and his peerage became extinct, and, as the office does not change during a reign, he was succeeded by his son-in-law, Lord Lewisham. The holder is now Lord Cholmondeley. His duties were anciently to clothe the king, and for recompense he had forty ells of velvet ; sad to say, the Committee of Claims in 1901 and 1911 alike found that this modest demand was not sufficiently supported, though it recognised the tenure of the office. In 1911 Lord Loudon and Lord Grey de Ruthyn were adjudged entitled to carry the great spurs. There have been conceded also the claims of the Usher of the White Rod for Scotland ; the Hereditary Standard Bearer of Scotland, adjudged by the House of Lords<sup>1</sup> to Mr H. S. Wedderburn as against Lord Lauderdale ; the Lord High Constable of Scotland ; and the Lord High Steward of Ireland. Other claims have been rejected or not pressed of recent years.

Holders of office who are entitled to take part include the Dean and Chapter of Westminster, the Bishops of Durham and Bath and Wells, who support the king in the procession from Westminster Hall to the Abbey, walking on either hand, if—as is not now the usage—the procession is held, and who in any

<sup>1</sup> *Wedderburn v. Lauderdale (Earl)*, [1910] A. C. 342.

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case assist by their presence the solemnities ; the barons of the Cinque Ports, who would bear the canopy if the king desired the procession to be resumed ; and the Lord Mayor of London, who walks before the king from the entrance of the Abbey to the place of coronation, bearing the mace. The Lyon King of Arms of Scotland and other officers of like status claim the right to be present, and the clerk of the Crown in Chancery has the like right, and acts as the clerk of the Court of Claims and draws up the coronation roll.

Claims dependent on tenure by grand serjeanty are now mainly obsolete. But the lord of the manor of Worksop finds a glove for the king's right hand, and supports his arm as he holds the sceptre. The lord of the manor of Scrivelsby, a name familiar to readers of *Marmion*, is royal champion, and, if the ritual were revived, he would be privileged during the coronation banquet to ride into the hall mounted on one of the king's coursers, and wearing the king's best suit of armour. There he would proclaim by a herald a challenge to anyone who denies the royal right, a scene vividly depicted by Scott in *Redgauntlet*. This done, the king drinks to his champion from a cup of gold. Other services, undoubtedly due but waived by the royal pleasure, include the mysterious office of Chief Butler, that of Chief Larderer, and that of Waferer. Sad to tell, the lord of the Isle of Man failed in 1911 to prefer any claim for the right to present two falcons to His Majesty on coronation day, though when claimed the demand has always been allowed. Yet, if the banquet were to be revived, the holder of the manor of Addington might well claim

to provide a man to make a mess of grout in the royal kitchen and bring it in person to the king's table.

### 3. *The Demise of the Crown*

From the time of Edward IV the rule prevailed that there was no break in the continuity of royal power, despite the death of the Crown. But this did not apply to the position of the servants of the Crown; they were not unnaturally regarded as the servants of the dead monarch, and as losing office with the cessation of their master's reign.<sup>1</sup> In a different way the issue applied to the Parliament summoned by the late king as a personal act. It was therefore necessary by statute to clear away the difficulty, and a series of statutes from 1696 to 1867 finally established the sound rule that Parliament acts independently of the demise of the Crown.

In the case of officers of the Crown and the Privy Council itself action was forced by the danger which plainly existed on the death of Anne. The destined heir must be in Hanover in all probability, and, if offices were vacated and the Council dissolved, ample room existed for action by the claimant's friends at Anne's court. It was provided therefore by the Succession to the Crown Act, 1707, that all offices should continue to be valid for six months after the demise of the sovereign and that the Privy Council should last for that period. In the first year of William IV the time was extended for oversea office to eighteen months, in that of Victoria commissions

<sup>1</sup> Anson, *The Crown* (ed. Keith), i. 278 ff.



Chapter II in the Army and Royal Marines were given validity without limit of time.

Under Edward VII the position was once more reviewed, for a new difficulty had arisen from the fact that Parliament remained in being, and that the rule of the necessity of re-election of ministers by reason of vacating seats through taking office was still in force.<sup>1</sup> If ministers were deemed to be reappointed on the sovereign announcing, as the King did, that all officers were to remain in office without limit of date, then it might be held that they should vacate their seats. To solve all doubts the Demise of the Crown Act, 1910, was passed and it was provided that the demise of the Crown shall not affect the holding of office whether in or without the royal dominions, nor shall any new appointment thereto become necessary by reason of such demise. Effect was given to the law from the beginning of the new reign, and incidentally the position of officers in protectorates and abroad outside British territories was cleared up. The terms of the Act of William IV has not included such officers in its grant of eighteen months' grace.

The result, therefore, is that the Privy Council is not dissolved as a governing institution nor is any office vacated by the death of the Crown. The legislation applies, it may be noted, throughout the dominions of the Crown, and put an end to difficult questions which had arisen therein from time to time.

<sup>1</sup> Ridges, *Constitutional Law of England* (ed. Keith), pp. 135, 136.

## CHAPTER III

### THE ROYAL FAMILY

#### 1. *The Queen Consort*

THE wife of the reigning king is styled Queen Consort, and in the time when wives had no personality of their own she escaped that diminution of personality, ranking as a *feme sole*, able to contract and sue and be sued without joining her husband, and capable of dealing with property. By statute she may dispose of land, while her husband is alive, by deed attested by two witnesses, and demise it by will attested by three.<sup>1</sup> Her power, of course, does not apply to any palace or capital house or lands which belong to the sovereign and are merely vested in her for life. She may also, if she thinks fit, have her own courts and be represented by an Attorney-General and a Solicitor-General, though Queen Mary made no such appointments. She may proceed by information, but no petition of right lies to her as it does to the king.

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Formerly the queen was entitled to Queen Gold, which was no more or less than a commission on any grant or pardon or other concession made by the king for payment; but with the abolition of feudal military tenures in 1660 this pleasing relic of

<sup>1</sup> Crown Private Estate Act, 1800, ss. 8, 9.

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antiquity was swept away. The law still stands, however, that, if a whale be taken in the narrow seas, the taker may keep the body, but the head belongs to the king, and the tail to the queen. This division of the booty was due to a chivalrous desire to present the lady with material for her wardrobe, and certainly the dress of Queen Elizabeth's day gave ample room for the use of whalebone. But the defective anatomical knowledge of medieval lawyers concealed from them the fatal difficulty that the bone is to be found in the head.

The person and chastity of the queen are protected during the life of the king by the law of treason, but in general her position is that of a subject, and she may be guilty of treason if she compasses or imagines the death of her spouse ; trial in these cases, prior to the abolition of the special rights of peers, rested with the House of Lords, by whom Anne Boleyn was condemned.

On the death of her husband the Queen Dowager ceases to be protected by the law of treason, since the succession cannot now be endangered, and it is claimed<sup>1</sup> that she may not remarry without the consent of the king. But the statute cited by Coke for this rule seems to be of doubtful validity, and in any case the queen by remarriage loses neither style nor dignity as do peeresses if commoners by birth. What other privileges she retains is uncertain, for the issue has not been raised of recent years.

During the life of the king the civil list makes provision for king and queen together, and on the death of the king the queen falls to receive an allow-

<sup>1</sup> 2 Co. Inst. 18.

ance for herself, which under the civil list of George V stands at £70,000 a year. Few queens, it may safely be said, have earned this payment more worthily than Queen Mary.

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## 2. *The Prince Consort*

The position of the husband of a reigning queen is both of historical interest and of practical importance, seeing that the next in the succession to the Duke of York, as matters stand, is Princess Elizabeth. William of Orange, as we have seen, refused to remain in England unless he were invested with the plenitude of royal power. Mary was permitted only to exercise the sovereignty when he was out of the country, and even then that power was subject to the validity of such acts of government as it pleased William to perform overseas.<sup>1</sup> It was otherwise with George, Prince of Denmark, the husband of Anne. He was admitted to the Privy Council but not sworn thereof, he became a peer, and was naturalised by Act of Parliament in 1689. But after that the Act of Settlement, 1701, provided that, from its taking effect on the death of Anne, no alien though naturalised, unless of British parents, might be a Privy Councillor, a member of either House of Parliament, hold military or civil office or receive a grant of land from the Crown. From the difficulties which would have fallen on George through the operation of this Act on Anne's death he was relieved by a special clause in an Act passed in the first year of her reign authorising her to grant him a revenue if he survived her. But

<sup>1</sup> 2 Will. & Mary, stat. 1, c. 6.

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he died before her. Otherwise he was simply a subject, without procedural privileges of any kind.

The position of Prince Albert of Saxe-Coburg and Gotha was regulated, on the declaration of Queen Victoria's decision to marry him, by statutes<sup>1</sup> which conferred on him, as soon as he had taken the oaths of allegiance and supremacy, the status of a natural-born British subject, free from the limitations still imposed even on naturalised persons by the Act of Settlement. He was given by the Queen precedence next after herself in 1840, by letters patent—objection having been taken to a statutory grant by the Duke of Cumberland—and in 1857 by letters patent she conferred on him the style of Prince Consort. Otherwise he was in the position of an ordinary subject, save that he was not sworn when introduced into the Privy Council. It was judged wise not to create him a peer. He had no privileges in procedure; when a claim for infringement of copyright owned by the Queen and himself was brought he sued as a private person, while an information was duly brought in the name of the Queen by the Attorney-General.

Under modern conditions the marriage of a queen to a foreigner presents great difficulties, and it stands to the credit of the Prince Consort that, especially after the retirement from office in 1841 of Lord Melbourne, he assumed his part of adviser to the young Queen with marked skill and success. His influence on the relations of the Queen to her ministers was wise and prudent; he seems to have attained the position of complete impartiality, and his knowledge of international affairs was wide and sound, for his

<sup>1</sup> 3 & 4 Vict. cc. 1, 2. For his arms, see *Letters*, ser. 1, i. 269.

mind was free from the insularity of British political leaders. Whether it would have been wholly fortunate for the development of monarchy if he had survived cannot be said. It is possible that the Crown might have acquired an undue share of power, when the Prince had succeeded in overcoming the prejudice felt against him, which took almost comic shape in 1854, when "My being committed to the Tower was believed all over the country, nay, even that the Queen had been arrested. People surrounded the Tower in thousands to see us brought to it."<sup>1</sup> It is clear that there is truth in the view that he was in part responsible for the Queen's firm belief in the rights of the sovereign, but the difficulty was not so much in the existence of the rights but in the employment thereof. It cannot be said that the Queen made wholly wise use of her powers, but that is not to say that the Prince Consort would have allowed her to fall into the errors which she undoubtedly committed. Moreover, in any case, it must be remembered to his credit that on his deathbed<sup>2</sup> in his unfailing interest in affairs of foreign policy he suggested the modification of the British despatch on the episode of the *Trent*, when Confederate envoys were removed from a British vessel by United States authority, which enabled the United States government to retire honourably from a difficult situation.

<sup>1</sup> Martin, *Prince Consort*, ii. 562; *Letters*, ser. 1, iii. 3, 4, 6, 8.

<sup>2</sup> *Ibid.*, v. 422. On possible dangers to ministerial rule if he had survived, see Strachey, *Queen Victoria*, pp. 219, 220; on his share in the struggle against Lord Palmerston, pp. 161-84; on his mentor Stockmar, Emden, *Behind the Throne*, pp. 21-89.

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III3. *The Prince and Princess of Wales*

The eldest son of the king is heir apparent, and he is regularly appointed Prince of Wales and Earl of Chester<sup>1</sup> by letters patent, these titles not being heritable. Further, by inheritance he is Duke of Cornwall and the revenues of the Duchy vest in him. But, if he dies, leaving a son, the latter is indeed heir apparent, but not Duke of Cornwall, for the charter of Edward III creating the Duchy does not provide for its possession by any save the heir apparent, being the son of the reigning king. By inheritance he is also Duke of Rothesay, Earl of Carrick, and Baron of Renfrew in the peerage of Scotland, Lord of the Isles and Great Steward of Scotland, and enjoys the revenues of the principality of Scotland. The possession of the Duchy of Cornwall made it unnecessary in the civil list of George V to provide a revenue for the prince while unmarried, though provision was made for his wife during his life and on his death, if he predeceased her without attaining the throne.

The prince and princess are essentially in legal status subjects without special privileges. But, as Duke of Cornwall, the prince has special property rights, a statute of 1795 orders his establishment in legal matters, and he enjoys the precedence and is subject to the restrictions of marriage of other sons of the king. The Princess of Wales, on the other hand, may be sued in common form. Statutes which deal with the prince differ from ordinary private Acts of Parliament; judges must take judicial notice

<sup>1</sup> The title was conferred on the Duke of York in 1901 on his return from Australia.

thereof, instead of their having to be specially pleaded. The person of the prince and his wife's chastity are protected by the law of treason.

#### 4. *The Princess Royal and other Members of the Royal Family*

The eldest daughter of the king is normally created Princess Royal, but not Princess of Wales, though Mary in 1525 seems to have borne that style when sent with a Council to maintain law and justice on the borders. She may be heir presumptive, but not heir apparent, for she is ever liable to be displaced by the birth of a son. Her chastity while unmarried is safeguarded by the law of treason. Otherwise she shares the same status as the other members of the royal family.

The other members of the royal family fall under the ordinary law of the land except in certain minor particulars. The children of the king are Royal Highnesses, and by letters patent the sons and daughters of sons of the king are also granted that style. It does not apply to the king's daughters; hence the children of the Princess Royal, Countess of Harewood, are neither princes nor Royal Highnesses, but Prince Arthur of Connaught is both. The style of Royal Highness may by royal permission be abandoned on marriage, as in the case of Princess Patricia of Connaught when she married a commoner. It may also be extended by royal favour beyond the normal limits on occasion. Thus, shortly before her marriage to the King of Spain, Princess Victoria Eugenie was created a Royal Highness by Edward VII,



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doubtless in anticipation of the wedding. Further, all children of the king are granted by statute of Henry VIII (1539) precedence in Parliament over all other persons, and the same statute, which assigns special precedence to high officers of state over all dukes, excepts from the privilege such dukes as are sons, grandsons, brothers or nephews of the king. Hence a royal duke, and the sons of the king are regularly so created in course of time, differs in essentials from an ordinary duke, and the style "My Lord Duke" is not appropriate in addressing him, "Sir" serving in lieu.

At common law the education and care of the royal family and the appointing of governors, instructors and servants, and the approval of marriages, rest with the king. The judges in 1717 declared that the right extended to children, grandchildren, and the heir presumptive while minors, and that, when they became major, he must still approve their marriages, and the same view was expressed by the judges in 1772, save as regards the issue of princesses married into foreign families. It seems in older times to have been extended to nephews, nieces, brothers and sisters, and the blood royal in general. The vital issue, of course, was that of marriage, and it was clear that, while marriage without royal approval was sufficient to expose the parties to punishment for contempt, the marriage remained valid. Hence the king was unable to prevent the marriage of the Duke of Cumberland to Mrs Horton or of the Duke of Gloucester to Lady Waldegrave, much to the indignation of George III. By a singular straining of royal authority he extracted from Parliament the Royal Marriages Act, 1772,

which remains unaltered, despite its incongruity with the modern belief in freedom of choice. Under it no descendant of George II, except the issue of princesses who marry into foreign families, may marry if under age twenty-five without the assent of the king under the great seal and declared in council; any marriage which ignores this rule is, as was ruled in the Sussex Peerage case,<sup>1</sup> null and void, wherever it may be solemnised; it was held that the nature of the statute demanded that it should be deemed to apply to the persons concerned wherever they might be. Those who aid in the making of any pretended marriage are threatened with the penalties of a *praemunire*, involving the forfeiture of property. If over twenty-five the members of the family to whom the Act applies may marry with such leave, or may intimate their intention to the Privy Council, and, unless within the year following both Houses of Parliament pass addresses disapproving such marriage, it can validly be performed in the usual way. No instance of such action has yet taken place, but the statute has not been wholly innocuous; the Duke of Cambridge, cousin of the Queen, had as a result of it to contract a marriage which was not recognised as such, though his children, the FitzGeorges,<sup>2</sup> were treated with kindness by Queen Victoria.

The statute must be rigidly adhered to even when the person concerned is virtually a foreigner, as in the case of Prince Ernest of Cumberland in 1913.<sup>3</sup> A difficulty<sup>4</sup> arose in the case of Princess Victoria Eugenie

<sup>1</sup> (1844), 11 Cl. & Fin. 85.

<sup>2</sup> Cf. Fitzroy, *Memoirs*, i. 299, 300.

<sup>3</sup> Duke of Coburg in 1905; Fitzroy, *Memoirs*, i. 239, 240.

<sup>4</sup> Lee, *Edward VII*, ii. 512-14.

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which embarrassed the king, for the marriage of a Protestant to a Roman Catholic king demanded her conversion, involving the confession by the convert of the falsity of the faith which the ruler was bound to maintain, and indeed the ruler, albeit reluctantly, had in fact sworn that the Mass was superstitious. The rumour was spread that not merely must the king assent if the marriage were to be valid, but that he was prohibited by law from giving such assent to marriage with a Roman Catholic. Luckily it was discovered that the Princess was the daughter of a Princess who had married into a foreign family, for Prince Henry of Battenberg, though later naturalised as a British subject, was a foreigner when Princess Beatrice married him. A difficult position was thus happily evaded, for both the Archbishop of Canterbury and the Bishop of London had brought to the royal notice the signs of public disapproval. Those who held these views noted with conviction that their objection must have been sound when they marked the long series of misfortunes which befell the married pair, commencing with the ghastly scene at their marriage at Madrid on March 31, 1906, when an anarchist flung a bomb with intent to kill the pair, and terminating in their estrangement after the flight of the king from Madrid in 1931. Though it was not necessary to give assent to the wedding, and though the king did not attend the ceremony, at which he was represented by the Prince and Princess of Wales, he thought it proper that a marriage treaty should be made as in the case of his nieces Princess Marie of Edinburgh and Princess Margaret of Connaught on marriage into the Rumanian and Swedish royal

families respectively. The king also required that the Princess should renounce her possibility of succession to the throne on becoming a Roman Catholic.

There is no doubt that the prohibition is now an illogical relic of an ancient past, and that it should be repealed, except if desired in the case of the sons and daughters of the reigning monarch. There is a patent absurdity when the rule is applied to persons of distant connection with the royal family simply because of their ultimate descent from George II, and with the passage of time the rule becomes more absurd. And if the ceremony were omitted in any case the marriage would have to be treated in England as if entirely void, which might easily work much hardship.

For the husband or wife and children of the sovereign it is naturally proper that provision should be made from public funds in addition to that made for the sovereign, and the principle was given effect to under Queen Victoria, though not without some heartburning. The ministry of Lord Melbourne bungled the business badly, and a combination of Conservatives and Radicals succeeded by 104 votes in cutting down the allowance of £50,000 proposed for him to £30,000. King Leopold<sup>1</sup> waxed most indignant at the vulgar and disrespectful conduct of the Tories, and the Queen resented the reduction bitterly. All her children were later voted grants, but there was murmuring in the Commons over the dowry of Princess Louise on her marriage to the Marquis of Lorne,<sup>2</sup> which established the principle that marriage

<sup>1</sup> *Letters*, ser. 1, i. 270.

<sup>2</sup> *Ibid.*, ser. 2, ii. 120; £30,000 and £6000 annuity.

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with royalty<sup>1</sup> was not essential, and fifty-three votes were cast in favour of reducing to £10,000 the annuity of £15,000 provided for Prince Arthur, while eleven intrepid members voted against any grant. The Queen wished to carry the matter further and to establish the right of the Crown to secure grants for grandchildren, but this went too far even for the extraordinary courtesy of Mr Gladstone in these matters. The principle was therefore limited in 1889 to the children of the Prince of Wales,<sup>2</sup> and the precedent was followed in the civil list of 1910 of making provision for the children of the sovereign, except the Prince of Wales, who had other sources of income. There can be no doubt of the soundness of the limitation. There is nothing to be gained by grants for distant scions of the royal family. The limited use of the style Prince and Royal Highness permits such members to be absorbed easily into the mass of the people, and accords excellently with the whole social system of the United Kingdom with its rigid limitation of the descent of titular distinctions.

<sup>1</sup> The last precedent was in 1515 (Mary, daughter of Henry VII).

<sup>2</sup> So Mr Gladstone, though the Queen demurred; *Letters*, ser. 3, i. 514, 515.

## CHAPTER IV

### THE INCAPACITY OF THE KING

HUMANITY dictates occasions when the king cannot accomplish his duties, and for these in various ways provision has been made from time to time. Chapter  
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#### 1. *Absence*

Absence was a serious barrier to activity in early times, and the ancient office of Justiciar, while it lasted, served to supply an *alter ego* for the absent king. When that office fell into abeyance, guardians of the kingdom served instead. This custom continued into the eighteenth century. The Prince of Wales was made Guardian of the Kingdom in 1716, and Queen Caroline filled the like office when her husband was on the Continent. Since then the practice has been discontinued. It was, however, in 1895 seriously contemplated to revive the usage in favour of the Prince of Wales in order to permit of a prolonged oversea visit of the Queen.<sup>1</sup> The Queen strongly approved the proposition, but ultimately it fell through ; ministers were probably disinclined to what would in view of the passage of time have been an innovation. The alternative course was to appoint Lords Justices by letters patent under the great seal

<sup>1</sup> *Letters*, ser. 3, ii. 476.

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with powers precisely defined. The expedient is found during William's absences overseas after the death of Mary, who acted in exercise of the royal power in his absence. But the device has not been found necessary since 1821. In lieu, during the absence of George V in India in 1911-12, provision was made for the appointment of four Councillors of State with specified powers to act for the King. In 1906 Edward VII had authorised the Lord Chancellor, Prime Minister, and President of the Council to act for him in the absence of his son, then also away from England.<sup>1</sup>

For short absences on the Continent it has been deemed unnecessary to make special provision, and it has been ruled that acts of the king performed abroad have full validity and authority. The issue was actually raised in 1876, when the question was asked whether the royal assent could validly be given to Bills by a commission signed by the Queen out of the realm. But the decision taken was that it was valid so to act, and attention was called to the statute<sup>2</sup> by which the acts of William done out of England were to be deemed and held effective. It may be that the precedent was not very cogent, but the obvious course of seeking a decision on the validity of one of the Acts thus assented to was not taken and the practice must now be deemed established beyond doubt. The invention of the telegraph and telephone has further facilitated the transaction of business at long range. But even so it was properly felt unwise and unconstitutional on the part of Edward VII to

<sup>1</sup> Fitzroy, *Memoirs*, i. 288. The Prince was allowed on occasion to hold Councils, e.g. in 1923 (*ibid.*, ii. 803).

<sup>2</sup> 2 Will. & Mary, stat. 1, c. 6.

select his Prime Minister, on the retirement of Sir H. Campbell-Bannerman, while at Biarritz.<sup>1</sup> Granted that there was nothing illegal in the action, the fact remains that it suggested that the royal convenience was preferred to the interests of the realm, and it may be doubted if it would be wise for any monarch to repeat the experiment. Nothing is less advantageous for the position of the Crown than the appearance or reality of indifference to governmental business. It is interesting to note how far things had been carried by Edward VII when it is remembered that the absence of the Queen in Germany in 1845<sup>2</sup> provoked questions in Parliament and brought Lord Lyndhurst into action in her defence. It must, however, be added that Edward VII had in his continental tours often issues of state before him, and that his holidays were far from idle enjoyment. He felt with some reason that his absence at a great distance from London might be unwise, and thus he disappointed deeply the Parliament of Canada when he refused its urgent request in 1906 and 1908 that he might visit it. His son was little interested in continental holidays.

## 2. *Infancy*

Infancy would naturally be a bar to the exercise of effective authority, though a fiction of the law treats the king as necessarily exempt from the imperfections of ordinary humanity. It follows from this doctrine that there is no rule of common law regarding the guardianship of the king, and therefore special devices have been used from time to time to meet emergent

<sup>1</sup> Lee, *Edward VII*, ii. 582.

<sup>2</sup> *Letters*, ser. 1, ii. 50, 51.



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needs. Edward III and Richard II were sufficiently mature to perform ceremonial acts, and so could open the Parliaments whereat Councils of Regency were chosen for them. The hapless Edward V was given Richard of Gloucester as regent by the Privy Council. Henry VIII, as usual, made full use of his unquestioned domination over Parliament; he was empowered to nominate by letters patent or will a Council for his heir; he executed this power, but even his imperious will could not in death mould the working of the state. The Council assumed the power to name Somerset Protector of the Realm, and the office was confirmed by the Lords and by letters patent issued by the young king.

Since then provision has been duly made by statute from time to time for the appointment of a regency in the event of the Crown descending to a son or daughter under age eighteen, as was done on the accession of George V, but the prospect of a regency being needed is now negligible.

### 3. *Insanity*

Insanity has seldom been the fate of kings of England; when Henry VI's mind failed in 1454, the Lords chose York as Protector and the Commons ratified the choice, the accord being cast in the shape of an Act of Parliament. Ten months after the king recovered, but at the end of the year relapsed, and the like choice was made by the Lords at the motion of the Commons. But on this occasion the king was able to sign letters patent giving York the office.

Medieval simplicity was forgotten in the struggle

for power between Pitt and Fox during the illness of George III in 1788. The only possible regent was the Prince of Wales, and that was common ground. But Fox hoped that the Prince in power would appoint a ministry from the opposition, and thus welcomed the succession to power of the Prince, which for that very reason Pitt dreaded, and Pitt sought therefore to impose limits to the royal power to be exercised. It was not therefore possible for him to act as did the Houses of Parliament in Ireland, when they presented an address asking that the Prince should assume power. An Act was requisite to limit the regent's power, but the king could neither assent nor sign a warrant for the issue of a commission allowing assent to be given on his behalf. Hence an absurd fiction was resorted to: Parliament was brought together and the two Houses agreed to direct the Lord Chancellor to ignore the lack of a sign manual warrant for the affixing of the great seal to a commission for assent to the proposed Regency Bill. The recovery of the king rendered final action needless and incidentally blasted the hopes of Fox, but the procedure was available when utter darkness descended on the royal mind in 1810-11.

#### 4. *Unfitness to Rule*

Removal of the king for failure to act according to his duty has been attested in the cases of Edward II, Richard II, and James II. But in the last case the procedure was made more irregular by the fact that the earlier kings had been forced to accord an apparent acceptance of their removal from the throne. In the

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case of James II the sovereign was not in the least degree inclined to facilitate the proceedings for his removal from the throne, and he had as it seemed a very strong weapon in his hands in the fact that the doctrine of divine right hampered seriously the action of his opponents. They could not, with due regard to the safety of the country or themselves, allow the king to resume power unconditionally. But it was illogical to make conditions if the king had the divine right to rule, and experience in the case of Charles I showed how impossible it was to induce a sovereign who believes in his absolute right to accept the possibility of limiting its exercise in any way. To appoint a regent on the theory that the king's actions rendered it just to assimilate his position to that of an insane person was possible, but clearly there would be many difficulties. The king would not recognise the regent and his acts, and, if the appointment of a regency was possible, equally would it be legitimate to set him aside altogether, and this step was taken. The two Houses declared that he had abdicated and proceeded to offer the throne to William and Mary of Orange. In a sense, no doubt, their action would have been more satisfactory if they could have secured the forced consent of James II, but patently it would have been difficult to achieve this result without proceeding to measures which the Princess could not contemplate against her father and which would have deeply disturbed the public opinion of the country.

As we have seen,<sup>1</sup> the passing of the Statute of Westminster, 1931, by demanding the concurrence of all the Parliaments of the Dominions in any alteration

<sup>1</sup> See chap. i., p. 12.

in the law affecting the succession to the throne, would render action such as that of 1689 very difficult.

### 5. *Ill-health*

In certain cases, despite the bodily presence of the king, ill-health has necessitated some delegation of functions, or has excused the normal routine. But instances are few and later use is much opposed to exceptions from personal royal action. Henry VIII, with his usual magnificent self-confidence, provided that a stamp might be affixed to certain documents in lieu of actual signature; Mary Tudor copied her father, and William III took like action. But, none the less, when it appeared in the closing months of the life of George IV that his growing illness rendered signature of documents troublesome and difficult, it was ruled that neither he nor the Council acting with him could dispense with signature. It was therefore felt to be necessary to provide by statute that documents might be stamped, but the process was not made easy for the king; he had to express his distinct consent to each separate use, and the documents so stamped were attested by a confidential servant and a number of high officers of state. It is just to record that the king, despite his growing weakness and natural impatience with the procedure, acquiesced in following it when reminded that it was enjoined by statute. Yet it is curious that it was not felt possible to depute signature to Lords Justices, for which there was precedent.

The action of George IV was duly invoked in 1862, when the number of army commissions still unsigned

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by the Queen had reached 15,000, and statutory provision was made to enable the Queen to be spared the necessity of signature in many cases, such as militia and volunteer commissions. The Queen resumed the work left *con amore*, but arrears accumulated in the stress of the Boer War, and Edward VII, after manfully tackling the work, finally had to fall back on a stamp.<sup>1</sup>

In George V's illness in 1928 a Commission was appointed to act for him ; it was composed of the Queen, Prince of Wales, Duke of York, Lord Chancellor, Archbishop of Canterbury, and Prime Minister. The quorum was three, and they were authorised to hold Councils, to sign documents and to do what was necessary for the peace, safety and good government of the realm. But they were not to dissolve Parliament, grant titles or peerages, or to act in any matter in which the King had indicated or they felt that his special approval was required. In the case of the Irish Free State, only the royal personages acted in the matter of signing documents. The appointment thus raised a new point, the propriety of the United Kingdom government arranging for the representation of the Crown without reference to the rest of the Empire. In view, doubtless, of this constitutional issue, when the King was ill in January 1936 it was proposed to adopt a like procedure but not to appoint any save royal personages to act. The principle is clearly sound, and the restriction if regularly adopted would seem to eliminate causes of discord.

<sup>1</sup> Lee, *Edward VII*, ii. 48. Cf. *Letters*, ser. 3, i. 515.

## CHAPTER V

### THE FORMS OF AND RESPONSIBILITY FOR ROYAL ACTS

#### 1. *Official and Private Action*

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THERE are many spheres of royal activity which fall outside the purview of constitutional law or custom. The amusements of the king, which in the case of a nation like the British necessarily occupy a considerable portion of the time of the monarch, are by common consent left to his discretion. The public was proud of the prowess of George V as a shot, and it looked with a lenient eye on the many kinds of social diversion affected by Edward VII. Queen Victoria shared the love of her people for plays and concerts. Edward VIII raised, however, some concern in the public mind by his devotion to horse-racing, when it turned out that his keenness on the sport was only equalled by his uncanny faculty for being dismounted, happily without serious injury. But the public sympathised with the freshness of spirit which led him later to enjoy the swiftest forms of road and air transport.

Public opinion also leaves to the discretion of the sovereign the forms and extent of his interest in the affairs of the various classes of his people. Nor is there any doubt that the actions of George V and Queen Mary, in making themselves by personal

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inspection familiar with the actual conditions of life of the lower classes of their subjects, and the even more intensive concern of the Prince of Wales, not seriously altered, it seems, by his elevation to the throne, have deeply pleased the workers. Queen Victoria, of course, living remote from the affairs of the day, knew little of the lives of the industrial population as compared with the simple people she came across at Balmoral, and it was only at the close of her life that a report on the shocking housing conditions of Windsor roused her to urge action.<sup>1</sup> Edward VII was a cosmopolitan man of the world, whose chief pleasure was to be found in society and in certain pastimes such as horse-racing, which brought him into closer contact than any of his other avocations with the feelings of the people.

Pleasures and interests must occupy much of the time of the king, and there falls to be added a burden of work<sup>2</sup> which under no conditions can be regarded as negligible even if the sovereign withdraws as far as possible from being more than a spectator, and which may easily absorb his whole attention. Both Edward VII and George V unquestionably resisted the temptation, to which Queen Victoria succumbed, to make the performance of official business in the sense of reading papers and writing minutes the chief concern of their lives. They realised that, with the growing complexity of modern business, any attempt to follow the example of the Queen would merely result in shutting them off from active participation in the lives of their people. Queen Victoria, despite

<sup>1</sup> *Letters*, ser. 3, iii. 607, 608.

<sup>2</sup> Redesdale, *King Edward VII*, p. 19.

her indefatigable efforts and her retirement from social activities, was overwhelmed by the mass of her work ; the whole has so developed since that it is far beyond the diligence of any sovereign to face. If it is true that since her time the active participation of the sovereign in public business has lessened, the obvious reason is the limitation of human capacity.

For unofficial acts no responsibility attaches to the members of the government, and the only responsibility of the sovereign is to his own sense of right and wrong and to public opinion. It is obvious that there may be actions which are on the border line between official and unofficial. Moreover, the sovereign, even in respect of matters which are of public business, may in private conversations give expression to opinions which are not in accord with the views of ministers. There is a classic example<sup>1</sup> of such an issue raised in 1864 by the ingenious Lord Palmerston. Founding his opinion on Press statements, he reminded the Queen that the views which were being attributed to her were such as to embarrass the government in its dealings with Denmark and Germany, and assured her that, while the Queen no doubt had in fact been duly guarded, it would be well that her entourage should be more discreet. The Queen regarded Palmerston with some excuse as extremely impertinent, but the principle he advanced is unanswerable. The king must, if he is a man of character, have definite views on many points, and he may well often differ from ministers. It is useless to expect him not to mention these views privately, but the convention is

<sup>1</sup> *Letters*, ser. 2, i. 186. General Grey admitted imprudence (i. 214, 215).



clear that all such matters must be treated as wholly confidential, and Queen Victoria was negligent of duty in this regard. No doubt even under her successors there has been indiscretion, but public feeling is probably nowadays more tolerant and is less inclined to take leakages *au grand sérieux*, so long, of course, as it is not suggested that the sovereign is disloyal to his ministers.

## 2. *The Prerogative and Statutory Powers of the Crown*

The powers of the Crown at the present day are drawn from custom and from statute. The former powers, in the main, are those which are essential for the maintenance of government, for preservation of the realm against internal tumults, for the conduct of relations with other states; the latter apply to those activities which transcend the necessities of state existence and maintenance. The modern tendency for the state to take charge of the social well-being and to regulate the economic life of the people is an innovation, and the precursors of such movements were likewise, when they appeared, innovations. It was on statute, not custom, that the governments which endeavoured to regulate English trade so as to secure a favourable balance and the influx of bullion relied; when the Elizabethan efforts to regulate effectively unemployment issues were made, it was Parliament which gave the necessary powers. But Parliament has also extended widely its activities into the spheres of customary powers. The arrangements, for example, for the maintenance of internal

order even in early times proved quite inadequate, and custom had to be supplemented or supplanted by statute. Defence again proved quite inadequate for maintenance of English ambitions when based on customary rights, and Parliament had to step in.

Hence we have two forms of royal authority : (1) that which rests on custom, or in the wide sense the common law, the prerogative,<sup>1</sup> or special powers which belong to the king as head of the state, as contrasted with the ordinary subject, and (2) statutory powers. It is not necessary to examine elaborately the character and source of prerogative powers. The essential part of the prerogative, which in the terminology of Professor Dicey gives us the discretionary powers of the executive apart from statute, goes back to the old conception of the king as leader of the people in war, guardian of the public peace, and supreme judge. The Saxon kings had such powers, but for our history the Norman Conquest afforded a decisive reinforcement of strength. The limitations of custom which restrained the actions of the Saxon monarchs were swept away when William I usurped by armed force the throne and compelled his acceptance by the people. The king was now supreme head of the administration, supreme legislator, and supreme judge, and in due course his position in the latter regard was destined to prove fatal to the institution which at first seemed to promise the maintenance of certain native features of the old regime, the operations of the local popular courts. The decline of their powers was inevitable, for the royal justice was made progressive, it adopted new forms, created the jury,

<sup>1</sup> Ridges, *Constitutional Law of England* (ed. Keith), p. 184.

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and ultimately got rid of absurdities like the ordeal or trial by battle, though the process was long and slow.

The coming of the Normans strengthened greatly another aspect in the royal power. The feudal system under which relations of subjects and ruler were essentially bound up with the relation of tenure of land resulted in conferring on the king certain rights which do not necessarily follow from the possession of supreme executive, legislative, and judicial power. Historically we owe to this element the special form which the property rights of the Crown have assumed, the doctrine that the Crown is the ultimate owner of all land in his dominions, and is entitled to escheats and to treasure trove. The law of treason developed from the conception of the personal relation of lord and man, and from allegiance as the relation between lord and vassal is developed the law of British nationality. This is the explanation why treason for long was so much concerned merely with the person of the king, while the early law of nationality is based ultimately on the doctrine that allegiance and protection go together, and the former cannot be claimed in cases where the latter cannot effectively be supplied.

A third aspect of prerogative is afforded by the legal doctrines which lawyers invented as matters of practical convenience to meet difficulties which otherwise would have hindered government. The doctrine of the perpetuity of the Crown was invented not because kings do not die, but because, since the peace is the king's peace, it is utterly objectionable that there should be even the shortest period when the peace is broken by the death of its owner. No one

imagined that a medieval king could do no wrong in point of fact ; it was only too patent that he might well prefer wrong to right, but the maxim was developed under the influence of the happenings of the long minority of Henry III, in order that those who acted for him could be brought to book, instead of escaping condemnation on the ground that it was the king who was responsible. From this doctrine we have the rule that ministers are responsible for the acts of the king and certain limitations on royal power ; thus the king may not make an arrest in person, for there would then be no remedy to the person arrested. But from another point of view the maxim is disadvantageous to the subject, for, as the Crown can do no wrong, no redress for wrong can be obtained from the " Crown " ; the remedy consists of suing the actual person who did the action complained of, and this is not as satisfactory a position as the right directly to sue the Crown.

The relation of statute to prerogative is simple nowadays. But its simplicity is the outcome of a long period of struggle, culminating under the Stuarts. The position of that family would in any case have been difficult. They came to an England in which Henry VIII had established an effective unity between himself and his Parliament and people, and this unity Elizabeth had preserved despite the religious difficulties which divided her subjects. But the Tudors, though they dominated Parliament and could use it at their pleasure, had none the less strengthened its position by their use of it, and it was difficult for a Scots king to recapture the special relation which had hitherto secured royal power. Unfortunately, in some

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ways, James I was an adherent of the new doctrine of allegiance which had sprung up in lieu of the feudal system which was gradually passing away. He believed in the divine right of kings and took seriously their duty to rule their people, supremely unconscious of the fact that the power, which had in his view conferred on him the right to rule, had omitted to bestow on him the capacity necessary to rule wisely. It followed from this doctrine that the royal prerogative now assumed unheard-of proportions. The medieval king had certainly not been above the law ; Bracton and his successors had regarded him as subject to the law as an essential element of the constitution. But James I claimed that he was the source of law and therefore not bound by it, and he had to back his pretensions the resources of the law courts, for, though Coke persuaded him that he could not himself sit to declare the common law, he controlled by the right of appointment and dismissal the judges who interpreted the law. Moreover, if it was not wholly easy to control Parliament despite the exercise of the power of creating parliamentary boroughs whose members would be amenable to control, the power of issuing proclamations with the force of law could be resorted to. No doubt the common law<sup>1</sup> courts might not accept the validity of royal proclamations which went beyond the existing law, but that mattered nothing to a king who in the Council and Star Chamber possessed an instrument which was wholly responsive to royal wishes.

The fatal result of the possession of power was its abuse. Parliament resented the attitude of the foreign

<sup>1</sup> *Case of Proclamations* (1610), 12 Co. Rep. 74.

king, and it was reluctant to vote supplies, ignoring the emergent needs of the day which rendered the revenues available to the king clearly inadequate for the purpose of the effective government of the realm. The king therefore endeavoured to increase revenue behind the back of Parliament, James I imposed new rates of customs duties, Charles I demanded ship money. The courts held both actions legal, and, what was worse from the point of view of the opposition, they adopted from the Crown lawyers the royal doctrine of the nature of the prerogative as something superior to all law, and as definable only by the king himself. Such a doctrine proved fatal; the Long Parliament declared invalid the contentions of the Crown and took the vital step of sweeping away the judicial powers exercised in the Council or the Star Chamber.<sup>1</sup> What it left undone was dealt with in 1689 and 1701, after James II had endeavoured to assert new prerogative rights involving the power to set aside the tests which Parliament had enacted to keep Roman Catholics out of the services of the Crown, and to suspend the operation of penal laws. The supremacy of the law was not merely asserted and the duty of kings to govern by law, a duty enforced in the coronation oath, but the tenure of office by judges after the death of Queen Anne was made independent of the royal pleasure. The days when prerogative could be elevated above statute had thus definitely vanished.

But prerogative remained in rather vague relations to the statute law and only after the late war were

<sup>1</sup> Tanner, *English Constitutional Conflicts of the Seventeenth Century* (1928).

several issues cleared up. It is now certain that prerogative powers can be taken away by Parliament, and, what was less clear, that where Parliament, without directly touching the prerogative, legislates to deal with a matter which could be dealt with by prerogative, it may well be held that the intention of Parliament was to supersede the exercise in that regard of the prerogative powers. Hence, if provisions exist under which the occupation of a hotel for defence purposes is possible subject to payment of compensation, that provision excludes any claim to take the hotel by prerogative without definite liability to pay compensation therefor save at the royal discretion.<sup>1</sup> Nor is the power to affect prerogatives confined to the British Parliament. Prerogatives affecting the Dominions may be swept away by their Parliaments, as when in 1933 the Parliaments of the Irish Free State and Canada abolished respectively all right of appeal from the Supreme Court of the Irish Free State<sup>2</sup> and all appeals from the courts of Canada in criminal causes.<sup>3</sup>

The actual participation of the king in matters of prerogative is much greater than in matters regulated by statute. When statutory regulation takes place, it is normally not thought necessary to demand much personal intervention from the Crown. Thus the legislation of 1932 which established the regime of protection in Britain gives authority to the Board of Trade and to the Treasury, but only in a very limited degree does it necessitate the use of Orders in Council

<sup>1</sup> *Attorney-General v. De Keyser's Royal Hotel*, [1920] A. C. 508.

<sup>2</sup> *Moore v. Attorney-General for Irish Free State*, [1935] A. C. 484.

<sup>3</sup> *British Coal Corporation v. R.*, [1935] A. C. 500.

made by the king. The great statutes on housing, unemployment, unemployment insurance, invalidity and old age pensions, the control of transport, of the coal industry, and the many other questions which affect social and economic life, give powers to ministers and other bodies, but seldom to the King in Council. On the other hand, statutes which invade the realm of prerogative not rarely have recourse to royal authority. If urgent danger affects the country from efforts to deprive the people of means of transport or the necessities of life, the king is authorised to proclaim a state of emergency, whereupon regulations vitally strengthening the powers of the executive to deal with disorder may be exercised under the Emergency Powers Act, 1920. When, in effect, statutes touch on vital issues, it is deemed right to confer powers in such a way as to secure that the king is necessarily made a party to and therefore consulted as to their exercise. The principle may not be explicitly avowed, but it is patent that it governs the decision in legislation as to the authority to whom powers are from time to time to be entrusted.

### 3. *Ministerial Responsibility for Royal Acts*

All royal official actions must be done, under the principles of the modern constitution, on the final authority of a minister of the Crown or the Cabinet,<sup>1</sup> the authority of ministers being derived from the fact that they command the support of the majority for

<sup>1</sup> Lord Palmerston to Queen Victoria, July 5, 1859 ; Lord Salisbury, January 28, 1886 ; *Letters*, ser. 1, iii. 449 ; ser. 3, i. 26 ; Mr Asquith, September 1913, *Life*, ii. 30.



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the time being in the House of Commons. This is the famous system of responsible government, which was devised in the United Kingdom, has spread to the oversea dominions, and has with varying degrees of success been imitated from time to time on the continent of Europe. Logically it is the due outcome of the doctrine that the king can do no wrong, for that implies that for what he does some minister must be held responsible. But to make responsibility useful in the public interest was obviously far from simple. Responsibility the Parliament of Charles II was determined to enforce ; when Danby on impeachment in 1679 pleaded a royal pardon, the Commons would not hear of such an attempt to nullify responsibility nor would they accept the suggestion that the royal command could justify the minister's action. The Parliament of William and Mary reinforced the rule of law ; it denied the claims made by James II to suspend the operation of laws or dispense at pleasure with their terms ; it limited the royal revenue so that the king would be barely able without further appeal to it to conduct the necessary civil business ; it legalised, but for a year only, the standing army which the king wished to have, and limited its numbers. The courts ceased to be subservient, and the House of Commons negatived any attempt to influence its membership by creation of new constituencies. But it was still possible for the king to win over supporters in the Commons by offices and bribes. Hence for a moment the whole future of the constitution seemed to be compromised, for the Act of Settlement, 1701, provided that any office of profit under the Crown negatived the holder being a member of the House of

Commons. If this clause had ever taken effect, the development of ministerial responsibility to Parliament would have been impossible. Happily it was repealed and ultimately the rule took its place that ordinary civil servants may not sit in the Commons, but that those holding the high offices of state which deal with policy should sit there or in the Lords, so that they could be subjected to effective criticism.

But the growth of responsible government was slow under William III, who regarded himself as his own Prime Minister and involved Lord Somers in impeachment by making him subservient to his wishes regarding the use of the great seal for concluding a vital treaty, the terms of which the king himself determined.<sup>1</sup> Queen Anne was less self-willed, and the pressure on her of Marlborough and Godolphin, reinforced by the commanding personal influence of the Duchess of Marlborough, led her reluctantly, after the election of 1705 showed the strength of the Whigs in Parliament, to consent to dismiss her Tory Lord Keeper in favour of a Whig, and further pressure brought about later the removal of Harley from office. Her own feelings were far more Tory than Whig, and the foolish prosecution of Dr Sacheverell for unsound opinions gave her the assurance that the tide had turned against the Whigs. Hence she was able to dismiss her Whig ministry and to establish the Tories in office, and the following election in 1710 proved that she had correctly interpreted the trend of public opinion. But the decisive impetus to responsibility of ministers to the Commons was afforded by the advent to power of the Hanoverian dynasty. No doubt it was not

<sup>1</sup> Anson, *The Crown* (ed. Keith), i. 54, 55, 100, 101.

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solely due to the fact that George I knew no English that he ceased to preside over the deliberations of the Cabinet; he was little interested in English affairs, and in any case, as he owed his throne to the Whigs, he could not cast aside their aid. The long regime of Walpole, who remained in the Commons, and effectively maintained with the aid of the Queen of George II his control of his colleagues, virtually created the office of Prime Minister and made possible the evolution of the modern system of ministerial responsibility. George III, as a British king, endeavoured to revive the royal power by the lavish use of bribery and the grant of offices and honours, but his fatal policy of refusal to conciliate American opinion involved him in popular disfavour, and the growing feeling in the country compelled the revolt of the House of Commons and resulted in the fall of Lord North from power in 1782. The royal authority was doubtless still strong, but essentially only when it was backed by popular opinion. George III could dismiss Fox and North only because their coalition had been regarded as immoral and lacking in principle by public opinion, which therefore enabled the king to grant Pitt at the proper moment a dissolution which gave him in the Parliament of 1784 a decisive majority. The struggle naturally was not over. The weakness of Pitt, and his contemptible subservience to the prejudices of a half-mad king, inflicted on the Empire the fatal decision not to accompany the union of Ireland with Britain by the measure of Roman Catholic emancipation which had been the inducement to the Roman Catholics of Ireland to accept union; by his failure to fight out the issue with the

king, Pitt extinguished the last chance of reconciliation between the peoples. His failure had the inevitable result: it encouraged George III to dismiss the Grenville ministry in 1807, and so worthless a king as George IV was still able to exercise an independent control on politics. But his consent to accept the Roman Catholic Relief Act, 1829, was symptomatic of the end. There was no reason for urging acceptance which had not been valid in the case of his father.

There were, of course, cogent reasons for the power still left in the hands of so poor a king as George IV. The essential basis of responsible government of the English type is the existence of effective parties, and the war with France resulted in destroying much of party distinction, and leaving open a wide range of royal freedom. It is undeniable that if in 1812 the Prince Regent had acted as his former associates hoped and given them power, he would have been able to secure for them a majority in the House of Commons, and Canning was then perfectly in favour of the view that the king had the right to select his ministry.<sup>1</sup> After the war there was greater possibility of sound political development, and the climax was reached in the struggle over reform. The resignation of the Duke of Wellington in November 1830 left the king no choice but to appoint Earl Grey Prime Minister, whatever his personal feelings. There were definite parties, and after that appointment was made Earl Grey, backed by the loud voice of popular opinion and threats of revolution if reform were denied, was in a position to lead the king up to the promise

<sup>1</sup> 23 *Parl. Deb.* 1 s., 267.

to create sufficient peers to carry reform if the Lords proved recalcitrant. In 1835 the fruits of reform were visible. In the past the Crown could profit by the ridiculously imperfect state of representation through which only on great occasions could the voice of the people have any effect on government. Now the political power had definitely passed to the middle classes, and the day of pocket boroughs was in effect over, however great might still be the local influence of the Lansdownes or other great territorial magnates. In 1835 the king, who had procured the disappearance from office of the Melbourne ministry in the year before, sought by a dissolution to secure his protégé, Sir R. Peel, in power. The result of the election for the first time proved that the Crown no longer could control the electorate.

Henceforth we have in full working the doctrine that the ministry decides policy, subject not to royal power but to the exercise of the influence which is derived from the unique advantages possessed by the Crown. Nothing can be more significant of the new doctrine than the attitude of Sir R. Peel when he took office after the fall of the Melbourne ministry. We cannot now accept the popular view that William IV dismissed that ministry. The *Melbourne Papers*<sup>1</sup> show that Lord Melbourne had put it in the power of the king to regard himself as having his advice to treat the ministry as having resigned. But Sir R. Peel knew nothing of the facts, and he accepted in the fullest measure responsibility *ex post facto* for the action of the king. It is useless to seek to minimise the importance of his attitude, for it was plainly

<sup>1</sup> Pages 220-6; Anson, *The Crown* (ed. Keith), i. 51, 52.

adopted deliberately in contrast with what happened in 1807, when Grenville's ministry was dismissed. The new ministry, not unnaturally, at that time combated the doctrine that they were responsible for the king's action. The later doctrine was unquestionably enunciated from the opposition benches in some cases with full appreciation of its import. But there was also supported the quite different doctrine of Lord Howick, later Earl Grey, which acknowledged the king's right of choice, but asserted the right to disapprove the fitness of the new ministry appointed. This view, of course, in no way admits ministerial responsibility; on the contrary it asserts that no one is responsible for the royal choice. At first sight it seems amazing that so retrograde a view should have been possible, seeing that as early as 1711 Lord Rochester,<sup>1</sup> in a debate on the conduct of the war, had properly insisted that "according to the fundamental constitution of this kingdom ministers are accountable for all." The root of the divergence of view is clearly bound up with the contrast between advice before the event, which naturally implied responsibility, and the acceptance *ex post facto* of responsibility for action not advised in point of fact. The logical difficulty, however, largely disappears when it is remembered that in getting rid of a ministry against its wishes—as was assumed to have been the case—the king must in fact have relied on consultations with members of the opposition carried on in order to ascertain whether he could succeed in obtaining an alternative ministry. At any rate it is quite impossible now to accept any view which

<sup>1</sup> *Parl. Hist.*, vi. 972.

accords power to the Crown to act without some minister being responsible to Parliament, though the exact form of responsibility is not always at once apparent.

#### 4. *The Various Kinds of Royal Acts*

It is impossible to give any simple account of the kinds of acts performed by the king.<sup>1</sup> It must suffice to say that the most important acts of government are regularly performed with his assistance. He summons, prorogues and dissolves Parliament; he declares peace and war or announces neutrality in foreign struggles; he receives and accredits ambassadors and makes treaties; he appoints to the highest executive offices of state; he is the head of the Army, the Air Force, and the Navy; through him the Convocations of the Church are made active, the great dignitaries of the Church of England are appointed by him; he is the fountain of justice, appointing the judges, setting in motion their circuits, and pardoning offenders convicted in his courts; he is the fountain of honour and the granter of charters of incorporation for many purposes of public importance; the public revenue is his, and his authority is necessary for its issue in expenditure. In a vast number of important matters he possesses in Council a wide delegated power of subordinate legislation. Over the Empire outside the United Kingdom his rights are more far reaching, for he has prerogatives of constitution making and legislation which are not applicable in the United Kingdom.

<sup>1</sup> See Anson, *The Crown* (ed. Keith), i. 62-72.

The forms of royal action are varied. Some matters are performed by word of mouth without writing. The Lord President of the Council is declared by the king at a meeting of the Council, and Privy Councillors kiss the royal hand and take the oath of office; record, of course, is kept, but that is not the operative power.<sup>1</sup> Ministers again kiss hands, and in some cases it suffices to transfer seals of office or hand a staff; in other cases the ceremony is accompanied by formal appointment in writing; the Admiralty and Treasury commissions, and the office of Postmaster-General, are created by letters patent under the great seal; the First Commissioner of Works is appointed by a sign manual warrant countersigned by two lords of the Treasury. The king could, no doubt, by merely striking out a name from the roll of the Privy Councillors terminate the holding of that office by any person; he could demand back the seals of a minister who displeased him. He delivers as a rule nowadays in person the speech with which Parliament begins its work of the session, and he could, if he wished, assent in person to the Bills passed; he could by word of mouth bid the Commons be summoned to the House of Lords and there from the throne announce the dissolution of Parliament, though personal action is no longer normal. But in the main his official actions are accomplished by writing. Not since 1854 has the Crown prorogued Parliament in person.

Forms are now relatively simple, as a result of the gradual abolition of a number of needless formalities, at one time commended to Parliament by the fact that check was thus applied to royal action, and later

<sup>1</sup> See, e.g., Fitzroy, *Memoirs*, i. 273, 274, 348, 349.



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maintained by the vested interests of the officials who carried out these steps and the high officers of state who possessed this valuable patronage. The abolition in 1884 of the use of the Privy Seal terminated a process of reform, and the procedure though still complex can be fairly simply explained.

(1) The king's pleasure may be expressed by Order in Council. An Order is passed by a meeting of Council at which a quorum of three Councillors is requisite. It is authenticated by the seal of the Council and the signature of the Clerk of the Council, the holder of an ancient office now for the time being combined with those of Secretary to the Cabinet and Secretary to the Imperial Defence Committee. The responsibility for making the Order plainly cannot rest with the small body of members of the Council, who often know nothing whatever regarding the Order laid before them. The responsibility rests with the minister in whose department the Order is drafted<sup>1</sup> and by whom it is sent to the Privy Council Office for enactment in due course. The range of such Orders is infinite; any form of statutory regulation which seems of high importance is thus enacted, as in the case of the regulation of aliens or air navigation. Other Orders are exercises of prerogative power, as in the case of regulation of prize and allied matters during the war. In protectorates constitutions are granted by Statutory Orders under the Foreign Jurisdiction Act, 1890, while for conquered colonies, such as Ceylon, a constitution is granted by a Prerogative Order.

Orders in Council in many cases are the foundation on which are based royal proclamations, which are

<sup>1</sup> Fitzroy, *Memoirs*, i. 297, 298; ii. 803.

intended to secure full publicity for the matters therein dealt with. Thus Parliament is dissolved and a new Parliament summoned by a proclamation; under the Emergency Powers Act, 1920, a proclamation of emergency is the signal for according wide powers to the executive to take measures to safeguard the public from serious hardship through organised strike action calculated to deprive the people of food, water or transport or light; war and peace are proclaimed, and currency matters, formerly under prerogative, now regulated by statute, are so dealt with. Proclamations the king signs.

(2) Less formal, as not requiring normally intervention by the Council, are sign manual warrants, documents signed by the king and countersigned by a minister, who thus formally assumes responsibility for the action provided for in the warrant. Appointments are made in this form in several cases, *e.g.* that of stipendiary magistrates, under the countersignature of the Home Secretary. Pardons to criminals are now granted in this simple form, replacing the former use of letters patent. One sign manual warrant is historically famous, for it was in this form that Queen Victoria abolished the system of purchase in the army, acting under a statute of 1809 when it was found impossible to secure the assent of the House of Lords to what was denounced as a violent invasion of sacred property rights. A royal message under the sign manual is necessarily sent to Parliament on the issue of a Proclamation of Emergency.

A commission under the sign manual serves the same purpose as a warrant for making appointments. Thus the Governor-General of India is now appointed

by a commission, but the Commander-in-Chief by a warrant. In some cases more than countersignature is expressly required. Thus a colonial governor is appointed by commission under the sign manual and the signet which is kept for use by Secretaries of State, an officer in the army by a commission under the sign manual and the second secretarial seal. A rather odd form of instrument is presented by the Royal Instructions to a Governor, for they are not countersigned, but the document is authenticated by the application of the signet. In the case of all these instruments responsibility is clearly marked out by countersignature or the use of the signet where that is not required. In the case of the commission of the Governor-General of a Dominion, responsibility for the appointment now rests with the Dominion government, which acts through the Prime Minister ; but in the case of Canada and Australia the signet is still affixed, including thus the responsibility also of the Secretary of State. In the case of the Irish Free State and the Union of South Africa this complication is avoided, both Dominions having provided themselves with signets and great seals of their own to supersede any use of the British seals.

For the issue of money the form employed is a royal order, countersigned by two lords of the Treasury, addressed to the Treasury, authorising that body to order the transfer from the Exchequer account at the Bank of England of sums in favour of those officers to whom they are authorised to be paid by appropriate legislation.

(3) Certain instruments must pass under the great seal of the realm, which is ultimately controlled by the

Lord Chancellor acting through the Clerk of the Crown in Chancery, the holder of an ancient office of importance also in respect to the coronation, as above noted.

Proclamations are issued on the authority of Orders in Council, as described above.

Writs are mandates issued to subordinate officers commanding them to perform or refrain from performing specified acts. Most writs are judicial, and are issued under the delegated power of the Crown by the judges. But in certain cases writs pass the great seal. Thus writs summoning peers to Parliament on succeeding to the title are issued by the Lord Chancellor without further authority, writs for bye-elections on the authority of the Speaker's warrant. Writs to summon a new Parliament are in practice issued on the authority of the proclamation dissolving Parliament and providing for the summoning of its successor, but an Order in Council is also made, directing the Lord Chancellor to issue the writs.

Letters patent are an open document sealed with the great seal and serving very varied purposes. Thus the Treasury and Admiralty boards are established by commission in the form of letters patent; Commissioners are appointed to open Parliament or assent to Bills. Certain professorial and other appointments are so conferred. Charters of incorporation pass the great seal, dignities are conferred, accomplices pardoned, judges commissioned and sent on their work in this form. The Lord Chancellor acts as authority as regards certain commissions of circuit and the commissions of peace,<sup>1</sup> but normally action is preceded

<sup>1</sup> For an extraordinary case, to execute the duties of Lord President in 1908, see Fitzroy, *Memoirs*, i. 353.

by a sign manual warrant, which is countersigned by a Secretary of State and sent by the Crown Office through a minister to the king accompanied by the patent to be sealed, and a docket explaining the purport of the instrument and the authority. The signature by the king of the warrant affords authority for affixing the great seal. In some cases the Lord Chancellor countersigns the warrant.

In certain instances the warrant cannot issue until an Order in Council has been passed authorising its employment. This is the case where a charter of incorporation is being granted, or a colonial constitution is being set up<sup>1</sup>; the Council in both cases is involved because by custom both these issues are essentially matters for the King in Council and not the king alone. An Order in Council was also used in 1928 to approve the issue of the warrant authorising the commission to the Councillors of State to act in the royal illness.<sup>2</sup> A like procedure was followed on January 20, 1936; the king's valiant efforts to sign the warrant have been pathetically described by the Archbishop of Canterbury, who was present.

Two other important instruments pass the great seal on the strength of sign manual warrants, countersigned by the Foreign Secretary. The first is the full powers issued to allow the signature of a treaty by a British representative together with the foreign representative. The king signs the instrument, to which the great seal is attached. Then, if ratification

<sup>1</sup> *E.g.* the Transvaal Letters Patent, December 1, 1900 (Fitzroy, *Memoirs*, i. 307); the Irish Letters Patent, December 1922 (ii. 790).

<sup>2</sup> A like procedure is used to allow a Prince to hold Councils for the King (Fitzroy, ii. 802, 803 (1923)).

is decided upon, an instrument of ratification is likewise signed by the king on similar authority.

In all these cases the responsibility can easily be assigned to a minister. In those cases where the king might act without writing, responsibility would still rest with the ministry of the day. It is in fact the custom that the draft of the royal speech on the opening of Parliament should formally be approved in Council, thus placing the full responsibility on the Cabinet. The recognition of the responsibility of ministers is of ancient date.<sup>1</sup> Swift in 1710 insists that the "speeches on these occasions are ever digested by the advice of those who are in the chief confidence, and, consequently, that they are the sentiments of Her Majesty's Ministers, as well as her own." Wilkes declared that it was well understood that the speech was not the king's when in No. 45 of the *North Briton* he denounced a passage in the speech of 1763 as "the most abandoned instance of ministerial effrontery ever attempted to be imposed on mankind." In 1841 Peel insisted, as against the Duke of Wellington, that the views of the speech were those of the ministers, and in no way committed the sovereign to the sentiments expressed. None the less, Prince Leopold and Lord Beaconsfield combined to deny this doctrine when in 1881 a severe struggle took place between Queen and ministers on the paragraph in the speech announcing the intention not to retain Candahar. The battle raged all day on January 5. 1881.<sup>2</sup> for Sir W. Harcourt and Lord

<sup>1</sup> Emden, *The People and the Constitution*, pp. 282, 283.

<sup>2</sup> Ponsonby, *Sidelights on Queen Victoria*, pp. 136-58; *Letters*, ser. 2, iii. 179-82.

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Spencer, who were on the spot to have the speech formally approved, were unable to modify its terms and it proved impossible to move Mr Gladstone. At 4 P.M. the Queen yielded to the plain warning that to disapprove was to eject the ministry, and that on the eve of the opening of Parliament was revolution. But she did so with complete lack of grace; the business was hurriedly gone through and the speech approved. "I spoke to no one, and the ministers nearly tumbled over each other going out." The issue in this case was too fundamental for compromise, but Mr Gladstone was willing to give in where possible. Thus the Bill for the better government of Ireland in 1893 was minimised to a Bill to amend the provision for the government of Ireland. There is, of course, an absolute right on the part of the sovereign to suggest changes in wording, but plainly, as the speech is the ministerial manifesto of its active policy, it is impossible for the Cabinet to go beyond narrow limits in permitting its emasculation.<sup>1</sup>

### 5. *Communications with Ministers and the Royal Secretariat*

The natural form of intercourse with ministers in important matters is for the king to see the minister concerned, if the issue is departmental in importance, or the Prime Minister if the matter is of general concern, and to discuss the issue verbally. The alternative of written communications is naturally

<sup>1</sup> For a substantial change in February 1910, see Lee, *Edward VII*, ii. 699, 700; Fitzroy, *Memoirs*, i. 396; for a verbal change in 1921, ii. 770.

resorted to for much routine business, such as submission of appointments for approval, communication of despatches on foreign, Dominion, Indian or colonial affairs, or memoranda on schemes of domestic reform. But it is clearly a sign of some failure in due relations between sovereign and minister when personal intercourse is avoided. After William IV was compelled to take back Lord Melbourne's ministry he seemed resolved "to intimate that his compulsory reception of them should not extend to his society and that, though he could not help seeing them at St James's, the gates of Windsor were shut against them."<sup>1</sup> The poor man was not even able to give a dinner for the Ascot races: "I cannot give any dinners without inviting the ministers, and I would rather see the devil than any one of them in my house."<sup>2</sup> Small wonder that this futile mode of procedure irritated the ministry but had also the virtue of making them feel themselves not his ministers but the ministers of the House of Commons.

Under Queen Victoria, so long as the Prince lived, touch was kept with ministers personally or through him without any serious break, though none of her ministers during this period ever caught the ear of the Queen so completely as Lord Melbourne. But on the Prince's death the Queen favoured an excessive seclusion on the plea of hard work and health. On neither head was her action justified, for her health was remarkably sound and the burden of work could have been relieved by the simple expedient of concentrating her attention on those matters which really required her personal attention. But her affection

<sup>1</sup> *Greville Memoirs*, iii. 293.

<sup>2</sup> *Ibid.*, iii. 271.



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for Balmoral led her to neglect her obvious duty and brought her into collision with Mr Gladstone, who in 1871 urged her not to go north before prorogation, especially as the annuity to Prince Arthur had been voted by many members who felt that they were running counter to the wishes of their constituents.<sup>1</sup> The Queen, however, refused and was clearly for the first time estranged from Mr Gladstone when he went as minister-in-waiting to Balmoral. Her stays at Osborne<sup>2</sup> or Balmoral naturally gave great inconvenience to ministers, and the practice of posting a minister-in-waiting was often a nuisance when it had so frequently to be arranged, but nothing moved the Queen. In the ministries of 1880 and 1892 it is patent that the Queen was most reluctant to see Mr Gladstone and avoided discussing with him any matters that were controversial.<sup>3</sup> No doubt, after her cordial relations with Mr Disraeli the change was too painful. But it is worth noting that the quarrel over the terms of the speech from the throne of January 5, 1881, might easily have been avoided had not the Queen declined to mention Candahar to Lord Hartington when he last was in attendance on her.

Edward VII was naturally fond of London and liked to see ministers or Under-Secretaries rather than indulge in long exchanges of written documents. Queen Victoria had known practically none of the heads of government departments, but Edward VII kept in touch with several of the leading civil servants. In his frequent journeys abroad he was often

<sup>1</sup> Guedalla, *Queen Victoria and Mr Gladstone*, i. 300 ff.

<sup>2</sup> *E.g.* in 1886 (*Letters*, ser. 3, i. 39 n. 1).

<sup>3</sup> See Sir W. Harcourt, *Letters*, ser. 3, i. 238, 239.

accompanied by the Under-Secretary of State for Foreign Affairs, acting as a minister plenipotentiary to keep him in touch with the Foreign Office and to take up matters with foreign ministers. Nor was he unwilling to accept the views of Mr Balfour at times through the mouth of Mr Sandars, a Private Secretary not less remarkable in his own way than Montagu Corry, Lord Rowton, the famous Secretary of Lord Beaconsfield. His own minutes were few compared with those of his mother, who delighted in voluminous communications. The telephone also was acceptable to the king, and this adaptation to modernity he handed on to George V, who was on excellent terms with his ministers, and who honoured Mr R. MacDonald with a special amount of consideration as the first Labour Prime Minister of the realm. Though this kindness has attracted some disapproval, clearly it was both wise and tactful to make it clear that Labour in politics had no enemy in the king, though his own views cannot naturally have been of that hue.

The office of Private Secretary<sup>1</sup> has long been recognised as of high importance for political no less than social purposes. George III had a secretary in Sir H. Taylor; George IV employed virtually in this capacity, though not *eo nomine*, Sir W. Knighton; and William IV recalled Sir H. Taylor to service. Under Queen Victoria Lord Melbourne at first acted virtually as Private Secretary, but there appeared also the interesting figure of Baron Stockmar, who was to act as adviser to the Prince and the Queen until he left England four years before the former's death. But the Prince was the Queen's Private Secretary and in

<sup>1</sup> P. Emden, *Behind the Throne* (1934).

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that capacity served most important functions. His own secretary from 1840 to 1847 was the talented George Anson, who did much to secure the Prince's successful initiation to governmental business, and from 1849 to 1861 General Grey. For six years after his death no formal appointment of Private Secretary to the Queen was made, the work being shared by Sir C. Phipps and General Grey, who in 1867 was admitted formally to the office. His services were of high value, attested by the testimony of Mr Gladstone in his letter to his successor in 1894, but he died in 1870, and with him the last person capable of bringing any sort of pressure to bear on the Queen. His successor, Sir Henry Ponsonby, remained in office until 1895. He won the equal praise of Mr Disraeli and Mr Gladstone for his complete impartiality, and the value of his services as an intermediary may be seen in *Sidelights on Queen Victoria*, published from his records. His successor was Sir Arthur Bigge, who in 1901, on the Queen's death, became Private Secretary to the Duke of York, and from 1910 continued in the king's service. Under Edward VII the duties of Private Secretary were borne by Lord Knollys, and since the death in 1931 of Lord Stamfordham they have fallen to Lord Wigram.<sup>1</sup>

The services of these officers are of course invaluable to the Crown, for only through their actions<sup>2</sup> and those of their subordinates can the king be in a position to exercise the rights of criticism which are a valuable feature of the British system. The published records

<sup>1</sup> After Sir F. Ponsonby's death (1935) he was also Keeper of the Privy Purse. In 1936 a new staff was chosen.

<sup>2</sup> Cf. Palmerston, cited by Emden, p. 15.

show clearly how excellent all these men have been as intermediaries between ministry and king and as aiding the sovereign to form a just judgment of the proper action in each case. They have, of course, no constitutional responsibility to anyone save the sovereign, but their importance has been increased by the development of the Dominions into autonomous governments, entitled if they so desire directly to communicate with the king. These communications naturally must be dealt with by the Private Secretary, who must, if this has not been already done by the Dominion government, secure that any necessary intimation of business transacted is conveyed to the appropriate department of the British government, the Prime Minister, or the Dominions Secretary or Foreign Secretary.

Finally, it may be noted that the king may in Dominions matters be advised personally by a Dominions minister or by the High Commissioner for that purpose specially instructed, and both the High Commissioner for the Irish Free State and the High Commissioner for the Union have thus acted on occasion. Thus the latter acted in lieu of the Home Secretary as minister in attendance on the ceremonial opening by the king of the official headquarters of the Union in London.

It must be added that the sovereign may to such extent as he thinks fit depute one of the royal family to act for him in matters of ceremonial, and may use the advice of any member as on the same basis as that of a Private Secretary. Queen Victoria in the last ten years of her reign showed both willingness to receive and to consider the opinions of the Prince of

Chapter V Wales on questions of foreign politics and of army reform. We have similarly on record cases of Edward VII receiving the views of George V as Prince of Wales,<sup>1</sup> and both these sovereigns, and the sons of George V when their parent was alive, were used to perform a vast number of ceremonial duties, not only in the realm but also overseas.<sup>2</sup>

<sup>1</sup> Cf. his memorandum on the policing of the seas which influenced Lord Fisher in 1907 (*Journals and Letters of Viscount Esher*, ii. 224).

<sup>2</sup> Lord Esher's position as adviser was approved by Mr Balfour and Sir H. Campbell-Bannerman (*Journals and Letters*, ii. 128 ; cf. 226, 261).

## CHAPTER VI

### THE KING AND THE FORMATION AND TERMINATION OF MINISTRIES

#### 1. *The King and the Formation of the Ministries of 1830-5*

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As we have seen, in 1830 the development of party politics had at last created a situation in which the king had no choice but to entrust the government into the hands of Earl Grey. The Duke of Wellington by his incredible defence<sup>1</sup> of the existing constitution with all its anomalies had alienated the last sympathy which maintained him, and on his defeat on the civil list on November 15 by 233 to 204 votes the king accepted, without making any effort to dissuade him, his resignation. The principle had thus been established that the nature of the government depends on the will of the electorate as expressed or implied in the attitude of the members of the Commons. Moreover, the king was forced by the pressure of events in April 1831 to assent to the dissolution, which Wellington denounced as fatal to the monarchy as the assent of Charles I to the Act which took away his power of proroguing or dissolving Parliament. The majority then secured by Lord Grey proved the will of the people, and led, despite painful changes of feeling, to the inevitable outcome of the royal promise

<sup>1</sup> November 8 (*Greville Memoirs*, ii. 55).

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to create peers, if need be, to destroy the obstruction of the Lords to the Reform Bill. Once convinced of the necessity of passing the measure, the king acted with decision, and by use of his personal influence secured the passage of the Bill without resort to the creation of peers, which was almost as repugnant to Lord Grey as to the monarch himself.

But it was natural that the king should not find much pleasure in the work of the reform ministry, and his sympathies were alienated completely when the issue arose of applying to secular purposes the surplus funds of the Irish Church. Four ministers in fact withdrew as the result of this move, and the king on May 28, 1834, at a levée replied to an address from the Irish prelates in terms pledging himself to maintain the *status quo* despite ministerial policy. It was no wonder that Lord Grey resigned and refused to be induced to take office. The king then endeavoured to act as Cabinet maker and to secure a coalition of Lord Melbourne with Wellington and Lord Stanley,<sup>1</sup> and, failing that, asked for pledges of the maintenance of the Irish and English churches and the exclusion from office of individuals unsatisfactory in his view. On both points Lord Melbourne most properly maintained a firm refusal. The opportunity for assertion of royal authority was not long delayed. In November Lord Althorp was removed to the upper house on Lord Spencer's death, leaving it necessary to find a new Chancellor of the Exchequer and a leader of the Commons. For these offices Lord Melbourne was willing to offer Lord John Russell, but he was anathema to the king, and a

<sup>1</sup> July 17 (*Greville Memoirs*, iii. 112).

confused discussion ended in the disappearance of the Melbourne ministry. Greville<sup>1</sup> declared that they were dismissed in the most positive, summary and peremptory manner, but the accounts available do not bear out this description. The truth is that Lord Melbourne was by no means anxious to remain in office ; the situation was far from easy, and, when he found that the king was clearly anxious for a change of government, he was not prepared to refuse to facilitate his desire. The king in his attitude asserted that he had had no communications from the opposition from which he could learn their sentiments, but he entertained sanguine expectations amounting almost to a conviction that he could count on their support. As we have seen, Sir R. Peel accepted *ex post facto* responsibility for what he deemed to have been the dismissal of Lord Melbourne, though clearly this is to put the royal action too high. It is impossible to be sure what position the king would have taken, had Lord Melbourne at his interview really insisted on his right to remain in office and on the unconstitutionality of the royal attitude.

The crucial test of the wisdom of the royal action was necessarily furnished by the election which followed the dissolution of December 30, 1834. The king had some reason to feel pleased, for the reform movement lost a hundred seats, and the ministry had 319 to 332 Liberal votes. But the essential change in the position was soon revealed. Votes could no longer be influenced as in pre-reform days, and on April 3 Lord John Russell carried by 322 to 289 votes his resolution on the surplus revenues of the Irish Church.

<sup>1</sup> *Memoirs*, iii. 158.



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The resignation of Sir R. Peel on April 8 exposed the king to the necessity of accepting back a Liberal ministry, after he had vainly sought to secure the creation of a coalition. Lord Melbourne accepted office only on his own conditions, including the creation of seven or eight peerages to counterbalance the six created by Sir R. Peel when in office, the exclusion from the royal household of members of Parliament hostile to the ministry, and the acceptance of his Irish Church revenues policy.<sup>1</sup> The king, however, accepted the position with singular lack of grace.

*2. Queen Victoria's Early Ministries*

The accession of Queen Victoria brought about a much more happy state of relations between Lord Melbourne and his sovereign. To her he showed himself at his best, kind, considerate, prudent, taking the place of the father she had never known, and teaching her gradually the fundamental principles of politics. It really was inevitable that, when his government resigned on the virtual defeat by five votes over the measure to override the Jamaican legislature's firm opposition to the amelioration of the position of the ex-slaves, the Queen should have been most reluctant to accept Sir R. Peel, an odd, cold man whom she could not understand. The Duke of Wellington induced her to send for Sir R. Peel, but she hardly made a happy beginning in the formation of her ministry by insisting that she intended to continue in close relations with Lord

<sup>1</sup> *Melbourne Papers*, pp. 269-77.

Melbourne. The real breach, however, was on the issue of the ladies of the bedchamber. Sir R. Peel was naturally insistent that the Whig ladies of the household holding important posts must be replaced by ladies of his party, and the Queen on this subject was adamant. In later years she admitted that she was then in the wrong,<sup>1</sup> and her attitude cost her dear, in so far as next year the Tories united with the Radicals in reducing from £50,000 to £30,000 the provision made for her husband.

Fortunately, when in 1841 the weak ministry of Lord Melbourne finally came to its inevitable end, her marriage had altered the issue of the ladies of the bedchamber, and the Queen was able to accept Sir R. Peel without the difficulties which had prevented action in 1839. Her fears of him gradually vanished, if her relations were never extremely cordial, and she expressed sincere appreciation of his services on his death in 1850. His resignation in 1846 led to no constitutional difficulty. Lord John Russell was not personally disliked by the Queen; the doubt felt by the Prince Consort and herself turned rather on his capacity, as was happily expressed by *Punch*<sup>2</sup> in the cartoon depicting Lord John as the diminutive new "buttons" to whom the Queen kindly observes, "I'm afraid you're not strong enough for the place." Her fears, if they were real, were not unjustified, and in February 1851 she was given an opportunity of Cabinet making, for Lord John Russell, defeated on the franchise issue, resigned. Her choice fell on Lord Stanley, but he could not obtain Mr Gladstone's

<sup>1</sup> *Letters*, ser. I, i. 211. For 1841 see i. 341 ff., 388, 389, 390.

<sup>2</sup> Marriott, *Queen Victoria and her Ministers*, p. 68.

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help, and, after receiving counsel from the Duke of Wellington, the Queen reinstated Lord John Russell in power.

The respite from Cabinet making was brief, for Lord Palmerston had to be removed from the Foreign Office in December 1851, on account of his independence of action in foreign policy, and he revenged himself on Lord John Russell by defeating him in February 1852 on the Militia Bill, which was an attempt to create a local militia, while Lord Palmerston desired to strengthen the existing force. Lord Derby consented to take office, but could not obtain the support of Lord Palmerston, and the best selection for the ministry was Mr Disraeli as Chancellor of the Exchequer. The ministry, however, was weak, and, though it gained some strength from a dissolution in July, it was defeated on the budget in December. The most amusing point that emerged in the formation of the household was the royal insistence that the persons to compose the Court must not be on the verge of bankruptcy and must be of good moral character. Lord Melbourne had been very careless on this score, and, though he declared that "that damned morality would undo us all," the Prince Consort insisted on compliance with the rule.<sup>1</sup>

The fall of the ministry elicited Lord Derby's advice to the Queen to send first for Lord Lansdowne rather than Lord Aberdeen on tactical grounds, which elicited her contention that the matter was one for her to decide. Lord Derby admitted the theory but referred to the usual terminology of announcements

<sup>1</sup> *Letters*, ser. 1, ii. 449. Sir A. Cockburn was refused a peerage on this score (*ibid.*, ser. 2, i. 257-62; cf. ii. 240).

of advice having been tendered.<sup>1</sup> In fact he agreed to her suggestion to send for Lord Lansdowne and Lord Aberdeen together, but the former's ill-health defeated the plan and Lord Aberdeen accepted office when he knew that Lord Lansdowne declined on grounds of health. The construction of the ministry proved very difficult, as Lord John Russell was most reluctant to take the Foreign Office and wished to lead the House of Commons without holding office, a procedure which was regarded as most objectionable, even if he resigned from Parliament and were re-elected. But eventually a ministry was gathered together. It is significant of the difficulty of the position that the Queen waived her doubts as to the wisdom of all the appointments. She succeeded, however, in having Mr Bernal Osborne assigned to the Admiralty in place of the Foreign Office. She readily accepted Sir William Molesworth at the Office of Works, the first Radical to become a minister.

The ministry suffered disaster in 1855 on Mr Roebuck's motion for a committee of enquiry into the conduct of the war, Lord John Russell having with singular disregard of duty resigned rather than face the motion. The Queen then discussed the issue with Lord Aberdeen and agreed that Lord Derby as the head of the largest opposition party must be asked to form a ministry. Lord Derby tried his hand, but the refusals of Lord Palmerston, Mr Gladstone and Mr Herbert to join a ministry, though Mr Disraeli was prepared to yield the leadership of the Commons to Lord Palmerston and the Chancellorship of the

<sup>1</sup> *Letters*, ser. 1, ii. 501, 502.

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Exchequer to Mr Gladstone, were decisive, despite the benevolent efforts of the Queen to aid. Then Lord John Russell tried to secure an administration, but the Peelites and the Whigs alike, save Lord Palmerston, would have nothing to do with him, and Lord Palmerston had to be resorted to. He succeeded at last, and of course with the aid of the Queen, who induced Lord Lansdowne to agree to represent to some extent the government in the upper house, Lord Granville becoming leader of the Liberal party in that body.

But Lord Palmerston and the Queen were by no means out of the wood. It proved impossible to abstain from going on with the committee of enquiry demanded by Mr Roebuck; and on the strength of their constitutional objections<sup>1</sup> to such an enquiry by the legislature into executive actions, Mr Gladstone, Mr Herbert and Sir James Graham, all Peelites, insisted on resigning. Steps were taken in consultation with the remaining members of the government to replace the retiring members by placing Sir George Lewis at the Exchequer, Sir C. Wood at the Admiralty, and Lord John Russell, who had been deputed to go as commissioner to Vienna, at the Colonial Office.<sup>2</sup> The office of Secretary at War was now dropped with the Queen's assent. She had held in 1852 that it should not be a Cabinet post, and Lord Palmerston had decided that its duties should be merged with those of the Secretary of State for War, the War and Colonial departments having

<sup>1</sup> Parker, *Sir James Graham*, ii. 268-72.

<sup>2</sup> *Letters*, ser. 1, iii. 138. This may mark the transformation of the ministry to Liberalism.

been separated in view of the fresh burdens imposed by the war on the joint office. Chapter  
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Lord Palmerston, after a brilliant rally from a defeat in 1857 on his Chinese policy by a dissolution, came to grief on the Conspiracy to Murder Bill of 1858. The measure was proposed to make conspiracy to murder a felony instead of a misdemeanour, and it was in itself defensible. But it was believed to show undue subservience to the wishes of the French government, and, although the ministry had had a large majority for its introduction, Lord John Russell, Sir James Graham and Lord Derby combined to defeat the government by 234 to 219 votes. The Liberals in considerable numbers failed their chief, because of irritation at his unwise action in including Lord Clanricarde in his ministry, despite unpleasant disclosures in the Irish courts. The latter was stupid enough to attend the debate and his presence sealed the fate of the Bill. Lord Palmerston insisted on resignation, despite the fact that the Queen by no means welcomed it, and Lord Derby reluctantly had to form a government. He could not deny his obligation to make the attempt, but thought the first person asked to form a ministry in an unfortunate position. The Queen was helpful, was willing to give the Lord Chancellorship to Mr Pemberton Leigh, and asked the Duke of Newcastle to help, though in both cases in vain, and the ministry actually assembled was not imposing. A dissolution in April 1859 did not save it, and it fell in June 1859.

The obvious course at this juncture was for the Queen to send for Lord Palmerston as Lord Aberdeen had advised. But she had no desire to take this step,

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for she disliked him, and equally she did not wish to ask Lord John Russell to serve. She thought, therefore, of giving the office to Lord Granville, and asked the other two to serve under him, on the specious plea that it would be invidious to ask either, having been Prime Minister, to serve under the other. But "Pussy" Granville found Lord John Russell obdurate, though Lord Palmerston with his usual good humour consented to act. There was no alternative but to summon Lord Palmerston, who added to her annoyance by insisting on giving Lord John Russell the Foreign Office, that being the condition demanded by the latter as the price of his aid. Mr Gladstone took the Exchequer, fired by the hope of seeing Italy set free, but Mr Cobden declined office, and to Mr Bright even Lord Palmerston did not venture to offer it. Indeed the Queen refused point-blank to confer on that distinguished politician the rank of Privy Councillor on the ground that he had never rendered any service to his country, a singular example of the blindness of princes.

Lord Palmerston's death in harness on October 18, 1865, elicited from the Queen a very unfair appreciation. She declared that "he was very vindictive, and personal feelings influenced his political acts very much," but the real reason of her dislike and lack of respect was "his conduct on certain occasions to my Angel."<sup>1</sup> She had naturally no alternative but to turn to Lord Russell, who showed no great enthusiasm at his age, seventy-three, to form a government. He met the Queen's wishes by keeping the War Office in Earl de Grey's hands, as desired by the Duke of

<sup>1</sup> *Letters*, ser. 2, i. 279.

Cambridge. His resignation was foreseen in May 1866 in view of the difficulties encountered by his reform proposals, and the Queen, anxious to go to Balmoral for her holiday in June, was urgent in seeking by a private appeal to Lord Derby to avoid the defeat of her government.<sup>1</sup> When it was routed by 11 votes, she declined to accept its resignation without further consideration, and with great regret was forced to send for Lord Derby, who consulted his party and aimed at a ministry on a broad basis. In this he failed, and had to construct a party government.

Some points of interest arose in this construction. The Queen joined with Lord Derby in an appeal to Lord Clarendon to remain at the Foreign Office, but he answered, "I cannot quit my party, because allegiance to party is the only strong political feeling I have."<sup>2</sup> She was also very doubtful as to the capacity of Lord Stanley for the office of Foreign Secretary, but Lord Derby insisted on the appointment in lieu of giving it to Lord Carnarvon, whom the Queen would have much preferred. Lord Derby made no objection to the retention of the royal equerries, but it was found impossible to leave Lord Sydney as Lord Chamberlain as he was not prepared to support the ministry, and Lord Bradford was given the office in lieu.

Lord Derby's resignation in February 1868 on grounds of health was marked by certain difficulties. He wished Mr Disraeli, his Chancellor of the Exchequer, to succeed him, but a hitch occurred, the Prime Minister desiring to delay retirement for a brief period in order to have the right in that capacity

<sup>1</sup> *Letters*, ser. 2, i. 329-31.

<sup>2</sup> *Ibid.*, i. 346 n. 1.



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to make a few suggestions of peerages. The Queen hastened his formal retirement,<sup>1</sup> and Mr Disraeli retained the former Cabinet with two exceptions. Lord Chelmsford was replaced, to his indignation, by Lord Cairns, but under an arrangement already intended by Lord Derby, and Mr Spencer Walpole was dropped. A proposal that Lord Derby should remain without portfolio was refused by that peer.

On Mr Disraeli's retirement on the defeat of his ministry in the election of November 1868, the Queen showed herself perfectly well disposed to Mr Gladstone, who fell according to Lord Granville under the charm.<sup>2</sup> But this did not lead him to refuse Lord Clarendon the Foreign Office, in accordance with an earlier understanding by which he felt bound, and he did not find a place for Lord Halifax, in whom the Queen expressed interest. Lord Russell freed both Queen and Prime Minister from difficulty by declining the seat in the Cabinet without portfolio which he was offered. The household offices caused no trouble, for the new Mistress of the Robes was to be the Duchess of Argyll, a *persona grata* to the Queen.

Differences between the Queen and her Prime Minister increased during tenure of office, and she was no doubt glad to be able in 1874 to commission Mr Disraeli to form a government, though Mr Gladstone departed from his interview on February 17 still under the charm.<sup>3</sup> Mr Disraeli was able to compose a ministry to the Queen's liking without undue difficulty. He gave the Exchequer to Sir S. Northcote, the Home Office to Mr Cross, while outside the Cabinet Mr Smith, who always maintained that

<sup>1</sup> *Letters*, ser. 2, i. 496 ff.

<sup>2</sup> *Ibid.*, i. 567.

<sup>3</sup> *Ibid.*, ii. 319.

the working classes were not republican, was given control of education, and Sir Michael Hicks Beach became Secretary for Ireland. The household posts caused no trouble; the sovereign vetoed the Duke of Beaufort, and the minister "repeatedly said whatever I wished should be done, whatever his difficulties might be," and at the close of the audience delighted his Queen by saying, "I plight my troth to the kindest of Mistresses."<sup>1</sup> How fortunate it is to have no sense of humour!

The support of her minister by the Queen was invaluable in the difficult days of the ministry, and she readily aided him in getting rid of Lord Derby as Foreign Secretary and placing in that office the more amenable Lord Salisbury.<sup>2</sup> But unfortunately from this time dates the Queen's hatred of Mr Gladstone, whom she absurdly believed to have incited her enemy, Russia, against Turkey.<sup>3</sup> Hence in September 1879 we find her<sup>4</sup> contemplating her Secretary getting into touch with leading members of the opposition in order to dissuade them from unwise declarations of policy, which meant in effect that she was prepared to seek to mould the programme of any future government, if and when she might lose the services of Lord Beaconsfield. At the same time in her private letter to Lady Ely she laid down the principles on which she would insist in regard to a Liberal ministry; she would not allow any diminution of the position of the country with regard to Russia, or India, or the colonies; she would never accept the disestablishment of the Church of Scotland, the real and true

<sup>1</sup> *Letters*, ser. 2, ii. 321, 322.<sup>2</sup> *Ibid.*, ii. 609, 611.<sup>3</sup> *Ibid.*, ii. 504, 538, 560.<sup>4</sup> *Ibid.*, iii. 47, 48.

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 stronghold of Protestantism ; neither Mr Gladstone nor Mr Lowe could ever be her ministers. The offence of the latter was his opposition to the Royal Titles Bill of 1876, which excited so deep a feeling in Court circles that ostracism still persisted up to 1891.<sup>1</sup> Sir C. Dilke was also negatived ; he had made republican speeches and criticised the civil list. The attitude of negativing in advance respect for the will of the electorate was wholly unconstitutional, but it must be remembered that it was at this juncture that Lord Carnarvon<sup>2</sup> complained to Mr Gladstone of the Queen's habit of lecturing individual members of the Cabinet and of sending it memoranda forbidding the discussion of certain issues and declaring that she would not agree to such and such a course. To this Mr Gladstone demurred on the clear ground that her position was reminiscent of James II and of George III as regards the coronation oath, but that with the assent of George IV to the Catholic Relief Bill that pretension had passed away. In fact, however, efforts had been made to use that oath against the disestablishment of the Irish Church.<sup>3</sup>

### 3. *Queen Victoria's Ministries from 1880*

In fact, when the dissolution which the Queen gave to Lord Beaconsfield ended in disaster, she still tried to evade the necessity of accepting Mr Gladstone as her Prime Minister, although it was perfectly clear that the Liberal victory was won by the leader who

<sup>1</sup> Askwith, *Lord James of Hereford*, pp. 92-6.

<sup>2</sup> Gladstone, *After Thirty Years*, p. 141.

<sup>3</sup> *Letters*, ser. 2, i. 611.

had surpassed himself in his Midlothian campaign. Even the Duke of Connaught pointed out to her his popularity, but Lord Beaconsfield encouraged her in the idle belief that she could avoid accepting him as leader. On his advice—welcomed, not rebuked as had been that of Lord Derby in 1852—she sent for Lord Hartington.<sup>1</sup> As Mr Gladstone had handed over his leadership of the party to Lord Granville on retiring, and Lord Hartington had only later been elected leader in the House of Commons, it seems clear<sup>2</sup> that her sending for the latter was hardly constitutional. Paramount considerations of common sense dictated that she should send for the real leader; but she might if she pleased prefer the technical head; to pass both over and ask a third to lead was discourteous. It was also useless, for Lord Hartington had the sound sense to point out that only Mr Gladstone could possibly be the head of the government, and he warned her that, if he had tried to form a ministry, it would have had to be very Radical in character, while Mr Gladstone would be decidedly Whig in outlook. It is instructive to note the conditions she laid down for her giving her confidence to any ministry formed by Lord Hartington or Lord Granville. There must be no democratic leaning, no attempt to change foreign policy, no hasty retreat from Afghanistan, and no cutting down of estimates. It is amusing to consider the complete misconception by the Queen of the position. The electorate had returned a very

<sup>1</sup> *Letters*, ser. 2, iii. 79 n. 1.

<sup>2</sup> So Gladstone, Morley, *Life*, ii. 622. The Queen represents him as approving the sending for Lord Hartington (*Letters*, ser. 2, iii. 84, 85). She herself had recognised Granville's position in 1875 (*ibid.*, ii. 379).

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decided vote in favour of a ministry which necessarily contemplated most of the things she was determined to refuse to do. The extreme bitterness which she henceforward displayed towards Mr Gladstone must be put down to the intense humiliation which must have been felt by her, when she realised that there was no way by which she could avoid accepting without effective conditions the minister whom she had declared to Lords Hartington and Granville she would have nothing to do with.

Her desire to secure her own way was expressed as regards the formation of the ministry in detail. She was reluctant to accept Lord Selborne as Lord Chancellor, and took exception even to the selection of the innocuous and able Leonard Courtney as Under-Secretary at the Home Office because he was a Radical,<sup>1</sup> and next year protested against his transfer to the Colonial Office, though it was clear that these posts are not held technically under the Crown but by appointment by the Secretary of State. It is not surprising that on the latter occasion Gladstone minuted her objection "intolerable," as the appointment had been notified to the Queen merely as a matter of courtesy.<sup>2</sup> Nor was she willing to help Cabinet making by letting Lord Ripon go to India as Viceroy, though ultimately she made a merit of acceptance.

The ministry was a painful experience for the Queen, and she was not sorry when in 1885 she again could try her hand at Cabinet making. The question again arose as to the choice of leader, for no one

<sup>1</sup> Guedalla, *Queen Victoria and Mr Gladstone*, ii. 130, 131.

<sup>2</sup> *Ibid.*, ii. 165.

among the Conservatives had her affection in any degree comparable to the esteem in which she had held Mr Disraeli. Since Lord Beaconsfield's death the leadership in the party had been shared rather unsuccessfully between Lord Salisbury and Sir Stafford Northcote, the position of the latter being constantly embittered by the unceasing criticism of Lord Randolph Churchill and his colleagues of the Fourth Party. But the decision as to the leadership was virtually certain, and the Queen disposed of the matter by her prompt adoption of Lord Salisbury. The further composition of the ministry did not depend on her wishes, for Lord R. Churchill refused to serve under Sir S. Northcote, who therefore had to go to the Lords. But the ministry lasted only 227 days, and the Queen had once more to accept the will of the electorate and admit Mr Gladstone to power. The voting in the general election gave 335 Liberals to 249 Conservatives, with 86 Home Rulers. The Queen was most anxious to avert what she regarded as the calamity of the return of Mr Gladstone to power and worked desperately, when the ministry was defeated in the Commons on an amendment to the address from the throne, to prevent the necessity of forming a new ministry under him. Her idea was to secure the aid of Mr Goschen and his Whig associates in order to be able to keep her late Prime Minister in office. But Mr Goschen probably knew that the Queen was writing nonsense when she said of Mr Gladstone, "He will ruin the country if he can, and how much mischief has he not done already?" In any case he asked leave<sup>1</sup> not to accept the invitation

<sup>1</sup> *Letters*, ser. 3, i. 26, 27, 28.

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to Osborne, and strongly advised the Queen to send for Mr Gladstone. This she reluctantly did, and the new ministry,<sup>1</sup> of course, was very different from its predecessor, for Mr Gladstone's acceptance of Home Rule, with which Lord Salisbury had been flirting in the hope of securing victory at the election of November 1885, had deprived him of Lord Hartington, Mr Goschen, and many other former friends, and his first Home Rule Bill, as a result of the defection of Mr Chamberlain and others, was defeated by 343 to 313 votes, marking the first step in that unhappy progress which was to result in the virtual severance of Southern Ireland from the Crown.

The Queen was now able to recall Lord Salisbury, thus finding a Prime Minister thoroughly congenial once more. Lord Salisbury himself was aware that for the work of Prime Minister he was not well adapted; he failed, in fact, in the willingness to extend his interests to the general business of government, and in matters which did not happen to interest him personally he let his colleagues do as they pleased. Moreover he was essentially of a retiring disposition, a man who loved to work by himself, who hardly knew even the heads of the permanent staff of the Foreign Office, and who in short fell far below the standard requisite in a great Prime Minister. We need not doubt that he would have been willing to serve under Lord Hartington, but the Queen preferred his leadership.

The elections following the dissolution of Parliament

<sup>1</sup> The Queen absolutely vetoed Mr Childers and secured Lord Rosebery the Foreign Office and Mr. Campbell-Bannerman the War Office (*Letters*, ser. 3, i. 38).

in 1892 gave Mr Gladstone a small majority of forty over the 269 Conservatives and 46 Liberal-Unionists. The Queen had watched the contest with sincere dissatisfaction, rejoicing only that Mr Gladstone's determination to press on with Home Rule was certain to involve him in grave difficulties. Nothing can exceed the violence of her language on the result : " By an incomprehensible, reckless vote, the result of most unfair and abominable misrepresentations at the elections, one of the best and most useful governments has been defeated. . . . The Queen Empress can hardly trust herself to say what she feels and thinks on the subject." <sup>1</sup> But she was clear as to the utter depression she felt at the prospect of seeing the affairs of the Empire " entrusted to the shaking hand of an old, wild, and incomprehensible man of 82½." But she had to accept the iniquitous government with such appearance of acquiescence as she could muster. Mr Gladstone as usual was conciliatory in personal matters. It was found possible to avoid giving a ministry to Mr Labouchere on the score that he would then have to abandon his control of *Truth*, which was worth £10,000 a year. Lord Ripon was given the Colonial Office, not the India Office at her express request; no offer was made to Sir C. Dilke. It is significant that the Queen wanted Sir W. Harcourt to undertake the duty of communicating with her and telling her what was going on. In fact the audiences between Queen and Prime Minister during this ministry were purely formal. The one step which the Queen took in an active sense to aid the ministry was dictated by her deep interest in foreign affairs.

<sup>1</sup> Newton, *Lansdowne*, p. 100; cf. *Letters*, ser. 3, ii. 132.



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Lord Rosebery was suffering from insomnia and unwilling to face the trouble of office. But the Queen and the Prince of Wales joined the Prime Minister in entreaties that he should serve at the Foreign Office, and he at last consented, with results ultimately far from advantageous to his party.<sup>1</sup> It is interesting to note that Lord Salisbury had deprecated pressure being put upon him by the Queen, since that would involve her in difficulties if later he were to get into trouble in his office.

The Queen's real liking for Lord Rosebery personally determined her attitude in part when Mr Gladstone on February 27, 1894, intimated his decision to resign. Undoubtedly failing sight and deafness contributed to the result, but his colleagues had long proved unworthy of their leader. They had refused in 1893 to appeal to the country against the action of the House of Lords, which by 419 votes to 41 had destroyed the Home Rule Bill, and their whole policy was one of futile ploughing the sands. When in addition they rejected his desire of economy on naval construction the cup was full and retirement inevitable. Whether the Queen would not normally have taken this opportunity for placing Lord Salisbury in power is uncertain; the matter was probably definitely settled against any such attempt by her desire to go south for a month before going to Coburg for her grandchildren's marriage, for acceptance of office by Lord Salisbury would have meant a dissolution, and it would have been undesirable for the Queen to be out of England for a considerable time at that juncture. Very probably also the Queen was not wrong in

<sup>1</sup> *Letters*, ser. 3, ii. 142 ff.

thinking that Lord Salisbury would rather wait until the ministry had still further compromised itself by the futile policy of its disunited leaders.

Characteristically the Queen did not ask Mr Gladstone's advice as to his successor; he intended, it seems, to have suggested Lord Spencer if she had done so. But he said that a peer was not impossible, though there was an agitation against a peer as Prime Minister and Mr Labouchere disliked Lord Rosebery. He also admitted that Sir W. Harcourt was not popular and said that Lord Ripon was one of the ablest and quietest men in the Cabinet.<sup>1</sup> In any case it would doubtless have mattered nothing to the Queen, for she was clearly under obligation to Lord Rosebery, who had taken office at her bidding, and she liked his views on foreign policy. But Lord Rosebery had no easy task in securing the necessary services of Sir W. Harcourt, and the concessions which he had to make were such as to be irritating in the extreme. He was to be free as leader of the House of Commons to take decisions without consulting the Prime Minister, he was to see the Foreign Office despatches, to have some voice in appointments, and to have Cabinets called at his request. Clearly, as Lord Rosebery contended, if it would have been difficult to serve under Sir W. Harcourt it would have been hardly less difficult to serve over him. The arrangement was plainly a mistaken one, which neither man should have accepted, and it led inevitably to that strain of relations which was dissolved in complete harmony only for the single moment when both insisted in the Cabinet that the defeat on

<sup>1</sup> *Letters*, ser. 3, ii. 369. Cf. *Morley, Life of Gladstone*, iii. 512.

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the cordite vote in 1895 must be followed by resignation of office. It is a singular commentary on the pass to which they had brought the party that they would not even have the courage to ask for a dissolution.

It has still to be recorded of this ministry that its existence was marked by the attempt of the Queen to engineer its destruction and replacement by a Conservative government; the issue which drove her to this attempt was the question of the House of Lords and the instrument was to have been a compulsory dissolution. The unconstitutional character of her action will be discussed below.

The resignation of the ministry opened the way for return to office of Lord Salisbury, who remained Prime Minister for the rest of the Queen's reign,<sup>1</sup> and with whom she was on terms never indeed of the cordiality which marked her relations with Mr Disraeli, but none the less sincere.

It is plain, in the light of these facts, that the Queen never fully accepted the essential principles of responsible government, which demand that the sovereign shall give full effect to the will of the people as expressed in the result of a general election; in 1880, in 1886, and in 1892 alike her attitude to Mr Gladstone was quite irreconcilable with her clear obligation on this head. Instead of installing him in power with complete candour, she endeavoured to prevent his obtaining the Prime Ministership and was anxious to dictate to him his choice of colleagues. Her attitude was in complete accord with the position

<sup>1</sup> He sacrificed Mr Matthews as Home Secretary but secured him a peerage (*Letters*, ser. 3, ii. 529).

which she adopted, as will be seen, towards her relations with the ministries, once installed, in matters of policy; she could never reconcile herself to the duty of the sovereign to accept each change of view of the electorate to the extent of affording loyal co-operation in the policy approved by Parliament, even when that policy does not commend itself to the personal judgment of the sovereign.

#### 4. *Edward VII and his Ministers*

The king naturally continued in office Lord Salisbury on his mother's death. His position at the head of the party was doubtless in considerable measure now shared by Mr Chamberlain,<sup>1</sup> but there could have been no idea of making a change without the initiative being taken by the Prime Minister, and in any case an alteration in the *status quo* when war was raging would have been misunderstood. The grounds on which Lord Salisbury on July 11, 1902, resigned office are still obscure. It is clear that failing health was the dominant feature, but it had originally been his intention to remain in his place until after the coronation ceremonial, and his sudden action was naturally much canvassed and very variously explained. The suggestion that the cause was difference on the attitude to be adopted towards Germany and France seems unconvincing, for the king was hardly likely on such a matter to press his views against Lord Salisbury to the point of a breach. The more current view remains that the minister was adamant against the pressure of the king to include in the

<sup>1</sup> J. L. Garvin, *Life*, iii. (1934).

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honours list the name of a certain friend of Jewish origin, and on the king insisting unconstitutionally on acceptance, refused to accept responsibility ; the episode gave rise to a famous *bon mot* ascribed quite absurdly to the minister. Unfortunately for the story it has been justly pointed out that on May 19, 1902, Lord Knollys had assured the Duke of Devonshire that the list of peerages for the coronation had already been settled by the king in consultation with the Prime Minister.<sup>1</sup> That, of course, is not conclusive, for Lord Knollys was merely stating what then was settled and the issue may later have been reopened. It may at least be confessed that the king's taste in friends was not always above criticism.

The selection of Mr Balfour as Lord Salisbury's successor is certainly an argument in favour of the view that the king and his Prime Minister parted on friendly terms, but in any case it was the natural step to take, for his relationship to the late Prime Minister, his parliamentary talents, and his authority in the House of Commons and the party generally, marked him out for promotion to the leadership. To have preferred the claims of Mr Chamberlain would have involved a distinct hazard and would have been uncongenial to the king, who had no special point of contact with him. In the actual making of the Cabinet the king failed to share. The reason was simple : he was recovering from the grave attack of illness which had assailed him just before the date originally fixed for the coronation and therefore could not undertake the fatigue of active intervention, though as Prince of Wales he had shown keen interest

<sup>1</sup> Lee, *Edward VII*, ii. 158.

in such matters and had helped to induce Lord Rosebery to accept office in 1892. But Mr Balfour was not unmindful of the King's friendship for Lord Londonderry, for rather unexpectedly the Duke of Devonshire, while remaining President of the Council, surrendered the duties regarding education which had hitherto been his to Londonderry as first holder of the new office of President of the Board of Education, for which a Parliamentary Secretary was found in the able constitutional lawyer Sir William Anson, who thus achieved that personal touch with public business which marks his *Law and Custom of the Constitution*.

When Mr Balfour, after a troubled ministry mainly due to the raising of the issue of preferential trade and protection by Mr Chamberlain, finally decided to resign, the question of selecting a Prime Minister presented serious difficulties. Lord Rosebery had ceased to be leader of his own volition and had separated himself in 1902 definitely from Sir H. Campbell-Bannerman, who in view of the resignation of Sir W. Harcourt of his claims had become the chief member of the party. It was clear that the normal choice for Prime Minister must be the leader of the opposition in the House of Commons, though he had made himself unpopular in many circles by the unhappy vehemence of his condemnation of "methods of barbarism"<sup>1</sup> employed in putting down Boer resistance. But the king did not hesitate to send for him on December 5, 1905, and to ask him to undertake office. Sir H. Campbell-Bannerman cordially accepted, and set about the difficult work of constructing a ministry. The task proved far from easy

<sup>1</sup> Lee, *Edward VII*, ii. 78.

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because Mr Haldane, Sir E. Grey, and Mr Asquith had some sympathy with the refusal, earlier announced, of Lord Rosebery to serve under the new leader's banner, and they proposed to make their combination in a new ministry conditional on the leader accepting translation to the House of Lords, while the leadership in the Commons passed to Mr Asquith. But, though the king was induced to add his suggestion to that of Sir H. Campbell-Bannerman's doctor, who wrote from Vienna to warn him of the fatal effect of the double strain of leadership of the Commons and Prime Ministership, and tactfully reminded him that neither of them was any longer young, Sir H. Campbell-Bannerman, fortified by his wife's advice and by the sense of public duty, was determined to defeat the cabal. In fact the rebels had overreached themselves. Though they did not realise it, no one of them had any such popular appeal as their leader. Faced with the alternative of submission or exclusion from the ministry, their resistance subsided with as much dignity as remained possible. The episode is significant of the great power placed in the hands of a minister by the royal commission to form a ministry.

The king was accommodating as regards the personnel of the new government. He expressed concern chiefly regarding the Foreign Office, the department in which he was to show throughout his life chief interest, and the name of Cromer was suggested and received his approval. But the offer was declined on grounds of health, and the views of the other members of the proposed Cabinet could now be gratified by the grant of the office to Sir Edward Grey, who was, as compared with Sir H. Campbell-Bannerman,

an Imperialist, though of a moderate and sane type. The ministry was then submitted in complete form for royal accord on December 8, though by an error the list actually was published in *The Times* before the king had given it his sanction. Fortunately the king realised that there had been an accident, and his conduct throughout this rather difficult time of Cabinet making was duly commended by the Prime Minister as first-rate. The relations of the two were indeed fated to be remarkably cordial, despite differences of outlook.<sup>1</sup>

In the matter of household appointments the wishes of the king were carefully considered by the ministry. The suggestion of Lord Carrington as Lord Chamberlain was accepted, but the post was declined by "Charlie" on grounds of health and the king approved its grant to Lord Althorp, with a viscountcy. Other offices were placed in the hands of Lord Carrington as the king's friend, and he was allowed to veto the suggestion that Lord Herschell should be made a lord-in-waiting when he learned that he was at the same time to act as private secretary to the Lord-Lieutenant of Ireland. It is amusing to note that changes of political opinions were not welcomed by the king, who used this as a reason for demurring to Lord Wimborne being made Lord-Lieutenant of Dorset, though he finally acquiesced in the appointment.

Sir H. Campbell-Bannerman's brave conduct in accepting the burden of office speedily brought nemesis, hastened no doubt by the death after a long illness of his wife, to whom he was devoted.

<sup>1</sup> Lee, *Edward VII*, ii. 441 ff.; Fitzroy, *Memoirs*, i. 270-2; Spender and Asquith, *Life of Lord Oxford*, i. 169 ff.



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On November 14, 1907, a heart attack at Bristol proved the beginning of the fatal period of his illness, and on February 12, 1908, he presided at his last Cabinet. Mr Asquith had already been acting virtually as Prime Minister for the past two months, and on February 17, the Prime Minister having been assailed on February 15 by influenza, and Lord Ripon also being absent, he wrote his first Cabinet letter to the king. The position was shortly to become inconvenient and difficult. The king visited his Prime Minister on March 4, on the eve of his departure for Biarritz, and hoped to encourage him to remain in office. But that was not to be, and the accounts of his growing illness necessitated the king's consideration of his successor and the mode of his selection.<sup>1</sup> The king was recovering health at Biarritz and was most anxious to remain there to complete the cure, and so we find him on March 19 expressing his desire that in the event of the Prime Minister's resignation or a serious turn in his illness an authoritative announcement should be made that before he left England it was settled that Mr Asquith should at once come out to see His Majesty at Biarritz. This proves clearly that the king had already determined, if necessary, to complete the change of ministry at Biarritz rather than curtail his stay and return home. Mr Asquith, however, had to point out at the end of the month that the situation had become impossible. There was no parallel since the ill-omened illness of Chatham in 1768; for a month the Prime Minister had been unable to see his colleagues or transact

<sup>1</sup> Lee, *Edward VII*, ii. 577-82; Spender and Asquith, *Life of Lord Oxford*, i. 195 ff.

business; Mr Asquith had no authority save in current House of Commons work, and further delay was undesirable, the Prime Minister himself being notoriously anxious to be relieved from duties he could not perform. The king was still reluctant to accept resignation before Easter, though it was pointed out that it was most desirable that time should be left after the reconstruction of the ministry for the re-election of new ministers before Parliament met on April 27. The knot was cut by the Prime Minister's resignation on April 1. The king reluctantly accepted his decision, and on the receipt of his formal submission of resignation wrote personally to ask Mr Asquith to form a ministry. The position was embarrassing, as the debate on the Licensing Bill was down for April 6, but the matter was put in order by the king's telegraphing a request for Mr Asquith's presence at Biarritz. He arrived there on April 8, laid down the Chancellorship of the Exchequer and kissed hands on appointment as First Lord of the Treasury. He had thought out his appointments and they were approved by the king. The most notable was the supersession of Lord Elgin at the Colonial Office. He had been selected to the general surprise by Sir H. Campbell-Bannerman as a personal friend, but his Liberalism was of a tepid character, and his administration of his department was marked by friction with Mr Churchill, his Under-Secretary, and otherwise displayed little competence. It was characteristic of the mode in which such changes are often made that the departing minister was to be consoled by the grant of a marquissate.<sup>1</sup> With commendable pride he declined

<sup>1</sup> Fitzroy, *Memoirs*, i. 347, 348, 349.

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to accept the proffered consolation prize ; frankly the procedure was absurd ; either his services were competent, in which case he should have been retained, or they were without much value, in which case the high rank of Marquis should not have been offered. The episode reveals rather baldly one unsatisfactory aspect of political life. The new appointments were otherwise satisfactory. Lord Crewe replaced Lord Elgin at the Colonial Office, Mr Lloyd George became Chancellor of the Exchequer, Mr McKenna took the Admiralty in place of Lord Tweedmouth, transferred to the Presidency of the Council. Mr Morley and Sir H. Fowler became peers.

It will be seen that in selecting his ministries the king displayed a spirit far more consonant with the true genius of the constitution than had his mother. He yielded to the clear voice of the electorate in 1905 in taking Sir H. Campbell-Bannerman as Prime Minister, for, though the election still fell to be held, there had long been no real doubt that Chamberlain's new policy and the ambiguous attitude of Mr Balfour himself had left no uncertainty as to the result when the polls were held. But the fact remains that the king could not know how crushing would be the defeat of the Conservatives and that his ready acceptance of a Liberal ministry was prudent. It is true that he was satisfied that he could not induce Mr Balfour to hold on, for he had made attempts to induce him to hold on until defeated in Parliament at least. On the other hand, it is clear that he erred in remaining at Biarritz to make the change of government in 1908. Public opinion at the time condemned him, and, though of course by accepting office Mr Asquith

assumed responsibility for the irregularity, which thus could not be criticised in Parliament, the impression was unfortunately conveyed for the time that the king was more interested in his own amusements than in the due conduct of public affairs.<sup>1</sup> Doubtless the excuse of health was strong ; it was not then realised by the public how frail was the king's hold on life, but it remains unlucky that then for the first time in his reign the king's judgment should have failed him.

### 5. *George V and his War Ministries*

It fell to the lot of George V to face many difficulties in regard to the formation of governments and to be enabled to display sound judgment and feeling for constitutional usage. He inherited from his father the ministry of Mr Asquith, weakened by the result of the election of January 1910, and faced with the work of carrying out its pledge to place on a new basis the relations of the two Houses of Parliament as a preliminary to the enactment of Home Rule for Ireland. Of his relations with this ministry in the critical period 1910-14 it will be necessary to speak below, but it survived its difficulties until they were reinforced by the additional complexities caused by the outbreak of war. The immediate result of hostilities was, of course, to lessen party strife, but the opportunity was not taken to arrange a coalition government in order to exclude its revival. It is easy to see that ministers were naturally eager to retain office and anxious to avoid the confusion of a re-shuffle

<sup>1</sup> Cf. Fitzroy, *Memoirs*, i. 352, 353.

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of offices, but none the less it was tempting providence to enter into war with a party government, when the opposition had been out of office since 1905 and was rich in men who felt that they had the capacity to serve the state more effectively than the rather mediocre men composing the Liberal Cabinet.

The mistake was to have serious consequences, for it left the way open for various intrigues as soon as it became clear that no early solution of the war difficulty could be expected.<sup>1</sup> Mr Churchill was in part the cause of the first blow at Mr Asquith's ministry. He unwisely recalled to the Admiralty the unstable and ill-balanced Lord Fisher, who seems to have fascinated and misled his contemporaries by his vivacity and self-confidence and skilled use of publicity. At any rate he failed entirely to justify his recall, and must bear a serious share of blame for the failure of the Dardanelles operations on their naval side. Finally he resigned office, a matter in itself probably advantageous to the state, but he was determined to revenge himself on Mr Churchill. With characteristic disloyalty to the chief who had given him office, he had sedulously disseminated the idea among his Conservative political friends that Mr Churchill was a thoroughly unsound administrator, and he was already deeply disliked by them as a renegade, as the man who boasted that the door had been barred and bolted against protection, and as the minister who had been prepared to use the Navy to suppress Northern Irish resentment of the governmental policy. When, therefore, Mr Asquith was

<sup>1</sup> Lloyd George, *War Memoirs*, i. 223-36. Cf. Mallet, *Lloyd George*, pp. 64-77; Spender and Asquith, *Lord Oxford*, ii. 164-78.

prepared to retain him in office, he was presented with an ultimatum by Mr Bonar Law ; the Conservative party would not be able to acquiesce in the position and would be driven to attack the ministry. From another side an attack was threatened. Lord French, unhappily in supreme command of the army in France and Belgium, failed to justify the high hopes set upon him. He resented the fact that Lord Kitchener was made Secretary of State for War, and he had some ground for complaint in the shortage of shells. His grievances were in the usual military way not hidden in his bosom, but imparted to his Conservative friends, with the result that the issue was raised in Parliament. Lord Kitchener naturally realised that it was folly to admit in Parliament that such a serious shortage as was alleged existed, and Mr Asquith and Mr Lloyd George were induced by him to deny that there was any serious shortage. Lord French retaliated by sending an emissary to Lord Northcliffe, and the menace of attack on munitions by the Conservatives was added to the issue of the control of the Admiralty. It would have been to expect far too much of human nature to imagine that the Conservatives would remain in these circumstances quiescent, and Mr Lloyd George soon came to their aid. He realised clearly that, if a Conservative ministry came into being without his co-operation, he might well be excluded, and so he joined in pressing his chief to accept a coalition.

Mr Asquith obviously in the circumstances had no alternative but to yield to the pressure upon him, and it was natural that he should think it more important to remain at the head of the ministry than

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to stand by those ministers who were attacked, and he consented, therefore, to a coalition. It may be doubted if that body as such was a success. It certainly inflicted one grave loss on the allied cause; the crisis and the reconstruction postponed the reinforcement of the Gallipoli army, with the result that the landing at Suvla Bay took place in August, a month too late, and its chief success, the work of Mr Lloyd George on munitions, could easily have been carried out under Liberal auspices. It is, however, clear that the king had no real alternative to accepting the change. It appeared *prima facie* to accord with the interest of the country in having a ministry uniting both the great parties; it saved the ministry from the great disadvantages of bitter attacks in the Commons in the crisis of war, and it was impossible to foresee that the coalition would not prove itself more effective than its predecessor, though it might be suspected that the evidence thus accorded of the power of the journalists and of the prevalence of selfish political intrigue boded ill for any permanence in the ministry. Most ominous of all was the Conservative insistence on the retirement of Lord Haldane, which must have grieved the king.

In 1916 a far more complex position existed,<sup>1</sup> in which in theory all the participants were animated by pure patriotism which compelled them to rather curious actions in order to enable them to attain a position in which they could take the necessary steps to save their country. It is not in the least necessary to doubt the sincerity of their beliefs. If a man

<sup>1</sup> Lloyd George, *War Memoirs*, ii. 979-1005, iii. 1039-65; Mallet, *Lloyd George*, pp. 77-88; Spender and Asquith, *Lord Oxford*, ii. 226-78.

believes that he can render great services to the state by achieving high office, he may be excused if he adopts methods which nothing but belief in his indispensability to the public interest could justify. Moreover the aspirants were encouraged to set high store on themselves by the favour of Lord Northcliffe, already suffering no doubt from the onset of that mental confusion which marked the close of his life. He unfortunately had learned power through his share in securing the ejection of Lord Haldane from office, and for this act and for his whole attitude he was disliked by Mr Asquith, who soon came to assume in his vision the aspect of the man who would lose the war. At the same time Mr Lloyd George found a personal reason for seeking to overthrow Mr Asquith's control. It lay in the fundamental divergence of opinion between the politician and Sir William Robertson, the chief of the general staff, on the principles of strategy. Mr Lloyd George had convinced himself—in all probability quite wrongly—that victory could be won not by frank pressure on the western front, where in fact it was and probably only could be won, but by operation in the East, and in special he desired to use the Salonika forces as support to Rumania when that power entered the war on the allied side. Sir W. Robertson's opposition was backed by the Prime Minister, and it was not easy for Mr Lloyd George to secure even Conservative support for the view that his tactics were sounder than those of the military staff. But here aid came from the anxiety of Mr Bonar Law to maintain intact the unity of the Conservative party menaced by the defection of Sir E. Carson, who had left the ministry



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in indignation at its failure to succour Serbia, and who in November attacked vehemently the failure of the government to deal drastically enough with enemy property seized in Africa. Mr Bonar Law was determined thereafter to secure the return to the ministry of Sir E. Carson, which met with opposition from Mr Asquith, who knew, what experience was again to prove, that Sir E. Carson was a thoroughly bad administrator. The way was open for an alliance between Mr Lloyd George and Mr Bonar Law, and it was furthered by that ingenious and able journalist now well known as Lord Beaverbrook, of Scots origin but in essentials a Canadian in outlook. Then followed a series of negotiations or intrigues; from Sir Austen Chamberlain's account it is clear that there were reticences and misunderstandings galore. Many Conservatives were quite willing to see Mr Lloyd George left out of the ministry and to accept Mr Asquith as head, but as matters worked out the result was very different. An arrangement was patched up under which Mr Asquith was to remain Prime Minister, but special arrangements were to be made for the conduct of the war by a small committee. At the last moment the publication of a version of the accord rendered it impossible for Mr Asquith to remain in office on these terms. Mr Lloyd George resigned, and Mr Asquith resigned also. There was no real alternative, unless he was prepared to fight a fierce political contest in a war crisis. He was in favour of the king sending for Mr Bonar Law as his successor, and the king did so. It proved, however, and indeed it is believed to have been prearranged, that Mr Bonar Law should be unable to form a

government, and the way therefore was open for his advising the selection of Mr Lloyd George. The intrigue, furthered by the most unscrupulous use of the power of the Press, had succeeded.

His Majesty's part in the affair must be pronounced unexceptionable. The vital question for him was the preservation of effective political unity during the war, and, however little he may have liked the methods of the new Prime Minister, he could not ignore that political position. It had been thought that Labour would have backed Mr Asquith and rendered his maintenance in office essential. But at the critical juncture this view proved unfounded. The Labour leaders, with very little appreciation of the true character of the situation, decided to support the new ministry, and there was thereafter no chance of saving Mr Asquith's government, while the new proposals at least offered some chance of more effective conduct of the war. Whether in fact they actually improved matters must be left doubtful. The course of events suggests that the contribution to victory made by the new device was negligible.

The king had also to approve a complete change in the Cabinet, the reduction of its numbers to a War Cabinet, composed of the new Prime Minister, Lord Curzon, Lord Milner—the “prancing proconsuls” of Mr Lloyd George's unregenerate days—Sir E. Carson, and Mr Henderson, to represent Labour. It was not an imposing body; intellectually it was strong, but Lord Milner and Sir E. Carson had been very poor administrators, and Mr Henderson was of no great value. The remaining member was Mr Bonar Law, who remained in touch with the Commons as leader

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of the House and Chancellor of the Exchequer, acting also as watchdog lest the vulgar disturb the profound meditations of the Cabinet. His position inevitably was of key importance. It secured that the Conservative party should be assured of unity and control of Parliament as soon as it was convenient to discard the new leader. Business men were at the same time introduced freely into the ministry and the king approved the conferring of the ministries of Food, Labour, Shipping, and National Service on non-professional politicians. The changes were interesting, and it is not surprising that the work done by these amateurs was of varied quality, and that with the advent of more normal political conditions they speedily made their exit from the world of politics in which they cut a poor figure.

6. *The Ministries of 1922-9*

The War Cabinet system was prolonged after the war was over, and the general election of 1918 had returned to Parliament a House of Commons of "hard-faced men who looked as if they had done well out of the war," fortified by the approval of the electorate in demanding absurdities from the enemy, with the assent of the Prime Minister, who was destined to conclude treaties fraught with the certainty of unlimited mischief. It is amazing to realise that the Prime Minister actually proposed to appoint Mr A. Chamberlain to be Chancellor of the Exchequer without a place in the Cabinet. No more unconstitutional absurdity could ever have been imagined, but the refusal of the minister to accept the suggestion

led to its withdrawal. Even so, return to normal was postponed, and only enforced late in the year when the general feeling was current that the War Cabinet had served any purpose it had, and should be discarded. The restoration of more normal methods followed, and the process of attrition of the cohesion and effectiveness of the ministry proceeded rapidly. The warning of the end was given in March 1921 when Mr Bonar Law resigned on the score of health. He had effectively held together the House of Commons, and as its leader continued to control it, even after the end of the war period should have brought back Mr Lloyd George to the normal duty of the Prime Minister. But Mr Lloyd George had never been accustomed to the task of leadership of the House, and he enjoyed too greatly the freedom of sitting aloof, waiting like a *deus ex machina* in case of need to descend on the House of Commons and receive its plaudits. He did not realise that the leader of the Commons must acquire a strength dangerous to any rival. Mr Chamberlain took Mr Bonar Law's place as head of the Conservative party and as leader of the House, but he could not easily gain the position of his predecessor. Moreover the ministry had many troubles, culminating in the failure of the Greeks in Asia Minor and the episode of Chanak in September 1922, when war seemed about to be renewed and an appeal made to the Dominions resulted in hesitation in Canada and serious perturbation in Australia and New Zealand.<sup>1</sup> It was this moment which was chosen by Mr Bonar Law to strike. A letter from him to

<sup>1</sup> Churchill, *The World Crisis*, v. 409-38; Gwynn, *Imperial Policing*, pp. 118 ff.

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*The Times* was regarded as a censure on the ministry and was the ultimate cause of the summoning of a meeting of the Conservative party at the Carlton Club on October 19. The purpose of the meeting does not appear to be obscure. There was admittedly much unrest in the party and uncertainty as to the wisdom of the bellicose attitude of the ministry, of which on one account Lord Curzon disapproved, and Mr Chamberlain was doubtless anxious to restore harmony with a view to the testing of the opinion of the country at a general election to which the coalition would move in unison. But the fates were against the ministry. Mr Bonar Law had not moved idly nor without securing allies. He knew that Lord Curzon was dissatisfied, and he found a supporter in a younger member of the party little known outside the House but popular therein, Mr Baldwin, then President of the Board of Trade. Despite the respect he expressed for Mr Chamberlain, Mr Baldwin insisted that Mr Lloyd George as a dynamic force was a very terrible menace to the integrity of the Conservative party, which was risking by association with him the fate which had befallen Liberalism at his hands. It was a cruel if true attack, and it had due effect. The voting was incontestable, 187 votes to 87 in favour, when the election came, of the Conservative party fighting as an independent party under its own leader and with its own programme.<sup>1</sup>

The vote was decisive. Mr Lloyd George resigned forthwith and the king naturally had to send for Mr Bonar Law, who had been the soul of the opposition

<sup>1</sup> Taylor, *Bonar Law*, pp. 257 ff.; Mallet, *Lloyd George*, pp. 236 ff.; Nicolson, *Curzon*, pp. 270 ff.

and had doubtless largely inspired it, backed, of course, by the unfailing aid of Lord Beaverbrook, convinced then as ever of the indispensable services which his compatriot could render to the country and Canada by adopting a policy leading towards preference and protection. Mr Bonar Law accepted office on the understanding that he would be shown to be the leader of the Conservative party by re-election to that office, which followed straightway. It is clear that there was no alternative choice as Prime Minister. Lord Curzon had already pledged his support, and of the coalition cabinet Mr Chamberlain, Lord Balfour, Lord Birkenhead and Sir R. Horne had pledged themselves to the support of Mr Lloyd George and had opposed the dissolution of the coalition. It would have been premature to think of Mr Baldwin, who had yet to hold high office and thus establish his rank as a leading minister. The new ministry contained no sensational appointments and received the assent of the king readily. It was shortly afterwards to win fresh strength out of defeat. The Minister of Health failed to win his election because of the handicap of the governmental announcement that rents would be progressively decontrolled, and to the vacant ministry was appointed Mr N. Chamberlain. The appointment must have been specially gratifying to the king as it renewed the contact with the ministry of the Chamberlain family, interrupted by his brother's refusal to desert Mr Lloyd George, a refusal dictated rather by loyalty than by any profound admiration of the talents of that minister.

Mr Bonar Law's ministry was not destined to have long life. The Prime Minister, it is safe to say, was

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in no condition to accept the burden of office, and his resignation in May 1923 merely preluded his death before the end of the year. His distinction lay in his skill in managing the party, which he brought to a fine art and which explains his final accession to power. The way now seemed open for the gratification of the ambitions of Lord Curzon,<sup>1</sup> and for the attainment of the office of Prime Minister. It may well be that his desertion of Mr Lloyd George was largely motivated by this end, for that Mr Bonar Law could live long was believed in 1922 by no one. His claims were singularly high. He had served not merely as Viceroy of India, but since 1919 he had fulfilled, under circumstances of much difficulty and some humiliation, the office of Foreign Secretary, and before that had been a member of the War Cabinet. There seemed no comparable claimant, and Mr Bonar Law made no suggestion to his sovereign as to his successor. But he waited in vain the longed-for summons; it was announced instead that the king had decided otherwise, and, when he offered reasons against the course in question, it was explained that the decision had definitely been taken and that the Prime Ministership had been offered to Mr Baldwin, who had won ill-deserved prestige by his calamitous agreement with the United States on the debt issue. It must, however, be remembered that at the time the settlement was popular. It met the wishes of financiers and it was thought by the public that not merely had the Chancellor of the Exchequer secured a reduction of about 28 per cent. in the total of the debt, but that under the Balfour formula the sums

<sup>1</sup> Nicolson, *Curzon*, pp. 352-6.

to be paid would all be provided by reparation payments and payments of allied indebtedness. The distasteful result of ultimate default through cesser of reparations and interest payments entered no one's mind, and we may assume that the king shared the general satisfaction. It must be set down to the prevision of Mr Bonar Law that he alone of the Cabinet disliked accepting the terms;<sup>1</sup> in these circumstances he should clearly have resigned rather than homologate them, as his son has since candidly pointed out. But he was a sick man and it was easier to defer to the weight of the Cabinet view, wrong as it assuredly was for the country to undertake absolutely a burden which it was to find insupportable.

The king doubtless shared the view of Mr Baldwin's success and must have recognised his popularity, nor is it doubtful that from Lord Balfour and other sources there was suggested to him the view that Mr Baldwin was the proper person for whom to send. But it is a mistake to adopt the opinion that the king had no real freedom of choice. The power of offering places is a very great one, and with the royal commission to form a government Lord Curzon might easily have achieved his end. He was well versed in politics and had no doubt that he could succeed. But, while the king might with full regard to constitutional usage have given him what he so eagerly desired, the reasons which motivated his refusal are easy to conjecture, and they reveal the essential power of the king to accommodate his views to the march of events. Lord Curzon was too Victorian to suit

<sup>1</sup> Taylor, *Bonar Law*, pp. 270-2; Wingfield-Stratford, *The Harvest of Victory*, pp. 308-12.



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the modern world, he had innately a viceregal demeanour which was out of date, and above all the growth of the strength of the Labour party demanded that the leader of the government should be present to combat them in the House of Lords. The motive was patently just. It is unfair to leave the highest power in the hands of a man who is not exposed to the heat and dust of the day. The idea of a Prime Minister enjoying the Olympian calm of the Lords to meditate high schemes immune from the busy conflict of the Commons may suit philosophers, but is remote from the practical needs of everyday life. Doubtless by his choice the king established the doctrine as a convention that the Prime Minister should under any but abnormal circumstances be in the House of Commons, but in doing so he merely accommodated practice to the necessities of the age.

The new ministry also was not destined to be of long life. Lord Curzon magnanimously joined it, feeling that his services were of value to his country and must not be withheld, but Mr Baldwin with remarkable lack of political acumen decided on a new venture in extending the doctrine of imperial preference with the accompanying protection of British industry,<sup>1</sup> and secured a dissolution of Parliament which resulted in a quite well-deserved defeat from an electorate annoyed at a purposeless appeal when the issue was far from ripe for settlement. The ministry though defeated remained with 258 votes the strongest party in the House, Labour having 191 and the Liberals, now reunited, 158 seats, and it quite properly waited defeat at the opening of Parliament. The

<sup>1</sup> Somervell, *George the Fifth*, pp. 313 ff.

position was now delicate, for the king had to choose between the leaders of the two parties whose coalition had defeated Mr Baldwin. But hesitation was removed when it became patent that, while there was no agreement between the two parties to co-operate, the Liberals were certain to support Labour in the main. The Liberal leader in fact had come to hold the view that the new situation presented possibilities for the return of his party to office.<sup>1</sup> If Labour were given a chance to govern and failed, and were defeated, it would not, in his opinion, be constitutionally incumbent on the sovereign to grant a dissolution, and the chance might come for him to be commissioned to form a ministry which might secure support from right or left sufficient to enable it to carry on. It was a fantastic dream, but it had its effect on his action, and the king therefore could safely install Mr R. MacDonald as first Labour Prime Minister.

Mr MacDonald had the claim for selection that he was the acknowledged leader by election of the party and that therefore he was assured of support by those whom he desired to have as colleagues. The decision of the king to welcome him cordially was worthy of him, and showed how completely he had caught the spirit of the age. It is inconceivable that Queen Victoria would have accepted a Labour government; she would unquestionably have employed all the power of the Crown to induce some coalition which would have allowed the Conservatives to remain in power or at least have given her a moderate Liberal Prime Minister resting on Conservative support. There

<sup>1</sup> *The Times*, December 19, 1923. He recognised Mr MacDonald's claim to office (*Life*, ii. 343).

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would probably have been a chance so to act in 1924, but the king wisely disregarded the suggestions freely made in the Press against the danger of a Labour ministry. He may indeed have accepted the view, which was also strongly urged, that it would be a wise step to allow Labour experience of office at a time when it was certain that it could do nothing revolutionary, though voices were also raised to urge that it was dangerous to give Labour any experience of office, and that the moderation with which a Labour government must now act might lead the public into a dangerous acquiescence in later bids for power.

The new ministry was carefully composed in such a manner as to facilitate royal approval of its personnel. For the office of Lord Chancellor the services of Lord Haldane were secured, thus avoiding any innovation in the high seriousness of the office for which Labour had no real candidate of its own. Lord Chelmsford at the Admiralty was a sound choice. Mr Snowden was soon to prove that he was the most rigid of upholders of the tradition of Mr Gladstone as Chancellor of the Exchequer, and Lord Olivier and Mr Sidney Webb were able economists. The one representative of advanced Labour views from Clydeside was Mr Wheatley, Minister of Health, from whom much was expected, but who failed later to justify the high hopes placed in him, and was not included in the second Labour ministry of 1929.

The life of the ministry was not prolonged, mainly owing to the lack of self-control on the part of the Prime Minister. He had, with the assent of the king and the approval of the public, taken charge of the Foreign Office, deputing part of his work in the House

to Mr Clynes, most self-effacing of men. The decision was a patent blunder. Lord Salisbury had combined the offices, but he neglected the duties of Prime Minister, and conditions had totally changed. The burden of the Foreign Office was enough for any man, and the combined duty led to the Prime Minister becoming wearied of the burden of office and determining to seek a dissolution on a mere incident, the carrying against him of a motion in favour of enquiry into the circumstances in which a prosecution for alleged incitement to mutiny had been dropped.<sup>1</sup> The dissolution which followed was decisive of the fate of the party. The Conservative party at last secured a really substantial majority, and the king naturally, on the resignation of the government, sent for Mr Baldwin, whose claim to office was unmistakable, the election having been fought virtually as a struggle between the personalities of Mr Baldwin and Mr MacDonald, for the support given by the Liberals to the Labour party had rendered them hopelessly unpopular in the country. Mr Baldwin's ministry followed normal lines and it succeeded in remaining in office for five years.

The result of the election of 1929 was unexpectedly disastrous to the Conservatives, whose error was to fight on the policy of "safety first," symbolised by Mr Baldwin with his pipe, an unheroic and ineffectual figure far different from the astute controller of party destinies. On this occasion also there was no doubt as to the choice of Prime Minister, for Mr MacDonald still controlled effectively his party, which accepted his failure in 1924 as the result of circumstances and

<sup>1</sup> Spender and Asquith, *Life of Lord Oxford*, ii. 345.

which had no liking for his more violent critics. But the new ministry was fated to fall on evil days and to show itself quite unfitted to meet crises which its own errors had created, and the opportunity was given and taken by the king for the full exercise of his powers of government.

### *7. The Crisis of 1931 and the National Government*

At the time when the government took office there was already in progress the event which was ultimately to lead to its downfall. The bubble of American prosperity had burst, and its effects were soon transferred to Europe. The government, however, failed to read the signs, and the shrinkage of revenue with the decline in international trade was coincident with the growth of unemployment and the gradual piling up of an enormous deficit on the Unemployment Insurance Fund, which at the beginning of 1931 reached £100,000,000. Mr Snowden in February 1931 was constrained to give a serious warning of the situation, but it fell on deaf ears. In May the Trades Union Council light-heartedly suggested the abolition of the principle of unemployment insurance and the grant of higher rates of relief at the cost of £150,000,000 a year above the existing cost. At the end of July the May Committee on Economy,<sup>1</sup> which Mr Snowden on Liberal instigation had appointed, reported, and estimated the deficit on the budget for the current year as £50,000,000, with £120,000,000 in the following year, recommending to fill the gap drastic reductions in many spheres,

<sup>1</sup> Parl. Paper, Cmd. 3921.

including the salaries of teachers and unemployment payments. The persons affected included therefore the most staunch of supporters of the ministry, which set up a committee to examine the suggestions. In the meantime the failure of the Credit-Anstalt in Austria had started a movement which brought about a rush to secure funds from Germany. To prevent collapse a moratorium of reparations and war debt payments<sup>1</sup> was hastily mooted by President Hoover and accepted, while bankers arranged a standstill agreement regarding Germany's debts. This measure, useful in itself, struck hard at the Bank of England, whose investments in Germany were thus immobilised, while France began drawing back gold in increasing quantities. The publicity given to the May Report added to the drain on British resources and rendered urgent the rehabilitation of credit by the balancing of the budget. The Cabinet Committee on August 13 recognised this and proposed to make good the deficit by equality of sacrifice, that is by raising taxation to the same extent as expenditure was decreased. But on August 19 the Cabinet as a whole proved unresponsive to the major suggestion that a 10 per cent. cut in unemployment benefit was requisite, but it did not wholly negative reduction, though it reduced the percentage to something like 3 per cent.

The Cabinet proposals were now submitted to the opposition leaders, with whom the Prime Minister had been already in touch, having invited them while the Cabinet Committee was still sitting to co-operate in framing proposals. The leaders had naturally

<sup>1</sup> Parl. Paper, Cmd. 3947.

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refused, but promised fair consideration of the government scheme. They now found it wanting, demanding that the proportion of taxation should be reduced to 25 per cent. The Trades Union Council also rejected the proposals, but on the ground that there must be no cuts in unemployment payments ; moreover the Council had imbibed the facile heresy that there was no essential crisis, that it was a "bankers' ramp," and that in any case it was no concern of the government's to make good the errors of the Bank of England. Such an attitude, though often since justified, was impossible for men of common sense. It is perfectly arguable that the power of the financial world in general and of the Bank of England in particular over the actions of governments is excessive, and even those who are far from approving state control of banking are not necessarily of opinion that the present authority of the Bank is wholly wisely used. The point was that in the actual situation to talk of the matter as a fiction of the bankers was absurd. The Labour Party Executive, which was far more closely in touch with the realities of the situation, was wiser and approved the scheme. But that was unimportant, seeing that the members of the party were largely under trade union control, and the essential issue was the view taken by Mr Henderson, who was the foremost representative in the Cabinet of the true faith. He had in this Cabinet served as Foreign Secretary, but, though the Prime Minister had relinquished control of that office, he had not lost his hold of foreign issues, and no doubt the two men had not worked together without friction. His decision to back the view of the unions caused a

definite split, for it was followed by the great majority of the Cabinet and the lesser ministers. On the other side stood the Prime Minister, Mr Snowden, and Mr Thomas, who was the idol of the railwaymen, and who believed that he could serve them best in this crisis by adhering to orthodox finance, with which his wide acquaintance with financiers gave him greater familiarity than was enjoyed by his colleagues as a whole. Lord Sankey, the Lord Chancellor, who had become known as a Labour supporter in the far-off days when he drafted a report on the coal industry which pleased Labour and disgusted the government, was also on the side of the Prime Minister. But the latter tried conciliation; he made further proposals which the opposition leaders rejected on August 21, and the Prime Minister had to take up once more the task of persuading his colleagues to further concessions. On August 22 the king left Balmoral for London, on the following day he received party leaders, and the Prime Minister reported to him in the evening an inconclusive meeting of the Cabinet. He returned thence to Downing Street, where he had interviews with Sir H. Samuel, Mr Baldwin, and Mr N. Chamberlain. On Monday the Cabinet was informed that its resignation had already been accepted by the king and that Mr MacDonald had received the royal commission to form a National government. The personnel of the new ministry was soon after announced: the four Labour members kept their offices; Sir H. Samuel became Home Secretary; Lord Reading Foreign Secretary; Mr Baldwin became President of the Council, with Mr N. Chamberlain as Minister of Health, and two minor Conservatives took



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the Indian and Colonial Offices. The reduction of the Cabinet to ten was consistent with the purpose of the government, which was not to form a coalition but a government of co-operation for the one purpose of meeting the financial emergency, after which the political parties would resume their normal positions. It was a curious delusion to imagine that the purpose was practicable, but there is no reason to accuse any of the ministers of anything worse than lack of common sense. Certainly few outside the Cabinet can have taken very seriously the announcement. The views of the Labour party were emphatically shown. On August 26 the Trades Union Council, the Labour Party Executive, and the Consultative Committee of the Parliamentary party joined in denunciation of the government and its proposals, demanding instead mobilisation of foreign investments, the suspension of sinking fund payments, and the taxation of unearned income. On August 28 Mr Henderson was elected leader of the Labour party in Parliament in substitution for Mr MacDonald.

The propriety of Mr MacDonald's action has often been called into dispute.<sup>1</sup> To the vast majority of the Labour party he was a renegade, a traitor who, having attained power through Labour votes, had allowed himself to be deflected from duty by his intercourse with the wealthy and the titled, and doubtless, like many men of humble origin, Mr MacDonald was rather unduly fond of consorting with people of ample revenues and high rank. The bitterness of their

<sup>1</sup> H. J. Laski, *The Crisis and the Constitution*. Lord Snowden's Autobiography is the best apologia; Lord Parmoor's *Retrospect* a convincing constitutional censure.

hatred was seen in 1935 by the contemptuous treatment meted out to him by his constituents at Seaham and his utter defeat ; not less significant was the fact that the utmost efforts of the government were necessary to secure his return for the Scottish Universities in a by-election due to the death of a Conservative supporter. It is at least true that no man of sensitive nature would have consented to remain Prime Minister after abandoning the party which he had led into financial disaster. This point of the affair is often overlooked, doubtless in part through the skill of Lord Snowden, who succeeded in making many of the electorate forget that it was primarily his duty and that of the Prime Minister to prevent the party falling into the morass of unsound finance. While they may justly censure their followers for failure to accept the necessity of their remedies, they must not be allowed to obscure the fact that prime blame for the errors rests with them, and they cannot be surprised if bitterness is felt at men who continued to enjoy the emoluments of office when those whose chief fault was that they had trusted their leadership were driven into a painful and hard-pressed opposition.

But the demerits of Mr MacDonald, grave though they are, are irrelevant to the position of the king. They are important only because they explain how the suggestion can be made that the episode was a Palace Revolution and its subject a royal favourite. It may safely be said that the king's action was not based on personal favour, nor was it revolutionary, but instead it followed in the essentials the rules of constitutional government.

The situation, as it must have presented itself to the

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king, was simply how best to extricate the country from the grave financial difficulties of which the drain from the Bank of England was a clear symptom. He might clearly have accepted the resignation of the Prime Minister when he found he could not command his Cabinet, had that been tendered, and then have sent for Mr Baldwin to clear up the situation. But such a course would have had grave disadvantages at a critical moment. The new Prime Minister would undoubtedly have had to face a serious opposition in the House of Commons and might at once have been forced to ask for a dissolution, whereas with a National government that could certainly be delayed, perhaps indefinitely, for there is no reason to suppose that an early dissolution was at first intended. Further, it was easy enough to believe then that the Labour members did not really represent the Labour party in the country, and that a National government would be able to appeal to many Labour voters if and when a dissolution did come. It must have been hard to accept the fact that the three Labour leaders really did not represent more than a handful of voters of Labour party faith. In these circumstances it was inevitable that a co-operative ministry must have seemed ideal to the king, when it was acclaimed by the Conservatives and Liberals alike, and when it offered the chance of maintaining the United Kingdom on the gold standard. This point must not be overlooked, because as it happened the standard failed to survive. That was in large measure due to the melancholy failure in duty of the fleet at Invergordon which, misinterpreted abroad, led to such demands on the Bank of England that it became necessary on

September 21 to suspend the legislation requiring the Bank to pay gold on demand.

The dissolution which shortly afterwards was resolved on gave a decisive majority of 559 to 56 votes and was followed by a reconstruction of the ministry to normal size. The result of the election forms the complete justification of the royal action. The king had correctly adjudged the wishes of his people, and his action conformed to the supreme test of conformity to the popular will. The new Cabinet was framed on a broad basis and must have easily obtained royal sanction. The two Labour members had been returned to Parliament mainly by Conservative and Liberal votes. Lord Snowden as Privy Seal remained in the Cabinet with Lord Sankey as Lord Chancellor; the Liberals grew to five, though Lord Reading was passed over on the plea of age, three Liberals and two National Liberals; and there were eleven Conservatives. But the matter was more than one of numerical strength; the Chancellorship passed into the hands of Mr N. Chamberlain, and Mr Baldwin was not merely President of the Council but also led the House of Commons. This post was essentially his strength, and it was not long before it was plain that the reality of power lay with him as the leader of 470 followers. The decisive issue proved to be protection, and on January 27, 1932, the Prime Minister announced that it had been decided, on Lord Hailsham's suggestion, to break the rule of Cabinet unanimity and allow members who dissented from protection to oppose it without forfeiting their places. Until September 28 the anomalous position continued, but the Ottawa agreements forced the two

Chapter VI remaining Liberals, Sir H. Samuel and Sir A. Sinclair, to sacrifice their offices.

It was clear that in the long run the position of Mr MacDonald as Prime Minister was unsound, resting as it did on Conservative support, and his resignation in 1935 on health grounds was long overdue. The king at once replaced him by common consent with Mr Baldwin, who thus achieved the form as well as the reality of complete power, while his late leader failed at the ensuing election even to hold his seat, and had to rely on the courtesy, perhaps a little contemptuous, of his friend to find seats for himself and his son, who had also gone down to disaster at Labour hands.

It is clear that, through the action of the king, the principles of constitutional government gained at once precision and reinforcement. His one criterion was acceptance of the popular will as collected from such sources of information as he could explore, and the sanity of his judgment was unquestionable. Though George V was never acquainted with the people in the sense that Edward VIII may fairly be said to be, he possessed his grandmother's faculty for gauging popular opinion, and thus accepting it as the test he applied his knowledge with skill and tact.

## CHAPTER VII

### THE KING, THE DISSOLUTION OF PARLIAMENT, AND THE DISMISSAL OF MINISTERS

No exercise of royal power is more important than that of the dissolution of Parliament, because it affects the power in the state which makes and unmakes ministries. There is force in the view<sup>1</sup> that the loss of this power by Charles I was the most serious of the limitations on his authority which he ever accepted, and the importance of maintaining this prerogative unimpaired has been normally insisted on by all political thinkers. It is significant that, though when the Status of the Union and the Royal Executive Functions and Seals Bills were carried through the Union of South Africa Parliament in 1934 with minimal amendment, every effort to secure clearer definitions was usually voted down, the government accepted words to make it clear that the Crown or its representative still retained the right to exercise discretion in the matter of the appointment and removal of ministers and the grant or refusal of a dissolution of Parliament. In the case of the Union, it is true, the rule that the Governor-General is the nominee of the political party in power when the appointment is made renders the discretion of little

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<sup>1</sup> Wellington, May 21, 1831 (Buckingham, *Courts and Cabinets of William IV*, i. 296).

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real value. But this is not the case with the king, whose position cannot be affected by any ministry, and who therefore retains for the benefit of his people discretion in these matters.

Needless to say, the power to dissolve Parliament cannot be exercised without ministerial advice. The necessary machinery presumes ministerial aid, but the king may refuse to dissolve when advised, and if he deems a dissolution necessary in the public interest he may urge such a course on ministers, and, if they will not accept his suggestion, he may compel their resignation or dismiss them from office, and appoint ministers who will arrange a dissolution. These are, of course, powers of high importance and seriousness, not to be lightly used, but their use is justifiable if they are necessary for the purpose of giving the will of the people its just course, though such a criterion of action is plainly difficult to formulate or apply.

1. *William IV and the Dissolutions of 1831  
and 1834*

The question of dissolution, as has already been noted, presented itself with most inconvenient force to William IV when on March 19, 1831, the Cabinet met to consider the question whether it would not be necessary in order to strengthen them in carrying the Reform Bill. The king's attitude was ascertained: he felt it his bounden duty to resist; in the excited state of the country riots in England and rebellion in Ireland might result and a deeper rift be driven between the Houses. He had, however, to yield when

General Gascoigne carried an amendment fatal to the Bill, and he dissolved Parliament on April 22, an action denounced as revolutionary by the Duke of Wellington. It is impossible to imagine a clearer case for action, and the king himself had to admit that the dissolution had served to get out of the way the demands he feared for annual Parliaments, universal suffrage, vote by ballot, and the repeal of the Union. The reason is simple; these demands had no appeal for the majority of those who already had the franchise or were to receive the vote from the Bill, and by meeting half-way the movement for reform the dangers of far-reaching changes were avoided.

William IV's dissolution in 1834 was the necessary outcome of the formation of the Peel ministry on the resignation, however procured, of Lord Melbourne. It was plain that the new government could not carry on in a House of Commons in which they were in a marked minority, and the king doubtless hoped that in accordance with precedent, as in 1784, the king's support of the ministry would secure it a verdict from the electorate. But the attempt, though it diminished the strength of the opposition by about a hundred, failed to give Sir R. Peel the necessary majority, and drove the king to take back Lord Melbourne. The significance of the event as showing the change of power has already been noted.

## 2. *Queen Victoria's Theory and Practice*

To Queen Victoria dissolution seems to have presented itself primarily as a method by which the Crown should afford aid to a ministry in difficulties.



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The idea is clearly derived historically from Lord Melbourne's conception of its employment ; no doubt both in 1831 and 1834 the king had used it as a means of aiding the ministry of the day, in the former case to obtain a clear majority for reform, in the second to secure a majority over the opposition. In the same way Lord Melbourne felt that the issue of a dissolution in 1841 involved the prestige of the Crown ; if it were given and the appeal failed, it would represent an affront to the Queen.<sup>1</sup> It is curious that this view should have appealed to them instead of the simpler and now natural conception of the dissolution as an appeal to the people to pass judgment on the management of business by the government. But the idea that the sovereign was deeply concerned with government and that he was in a sense responsible for it cannot have been easy to eradicate. After all it was barely fifty years since George III had lost the American colonies by a policy that was essentially his own, and until 1829 the king had been able to prevent so necessary a reform as the relief of Roman Catholic disabilities, and William IV had threatened to secure an impeachment of ministers if they thwarted him.

In 1841 in fact the Queen gave Melbourne a dissolution, with the result, painful to her, of the return of a majority of eighty against her much-beloved minister, who closed his active official career by the excellent advice he gave both to the Queen and to Peel on the conduct of their rather difficult relations. The same view of dissolution was repeated by the Queen in a communication <sup>2</sup> to Lord John Russell

<sup>1</sup> *Letters*, ser. 1, i. 348.

<sup>2</sup> *Ibid.*, ii. 108.

when he suggested a dissolution in 1846. She viewed the power of dissolution as "a most valuable and powerful instrument in the hands of the Crown, but one which ought not to be used except in extreme cases and with a certainty of success. To use this instrument and to be defeated is a thing most lowering to the Crown and hurtful to the country." It is clear that the defeat of 1841 was still most painfully present to the royal mind, and the dissolution of 1847, which was necessitated by the passage of time, did not give Russell his desired clear majority but left him with 335 seats still dependent on the 105 Peelites. The issue of a dissolution was raised definitely and in an interesting way in 1852 when Lord Derby,<sup>1</sup> threatened by a vote of censure in the Commons, asked permission to state that if it were carried a dissolution would follow. The Queen naturally declined to give an assurance patently desired in order directly to influence debate by the use of her name, but she also consulted Lord Aberdeen as an elder statesman on the position. He approved her attitude, but took occasion to develop the position. The Crown had an absolute right to refuse a dissolution, but, if as a result of the refusal, the assumption being that the vote of censure had been passed, the ministry had resigned, then the result would be exactly as if the Queen had dismissed the ministry, and the incoming minister would have—as in the case of Sir R. Peel—to accept full responsibility for the royal act, and to defend the step taken in Parliament. He added the very significant intimation that he had "never entertained the slightest doubt that, if the minister advised

<sup>1</sup> *Letters*, ser. 1, iii. 283, 287.

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the Queen to dissolve, she would, as a matter of course, do so." The essential good sense of the view thus expressed cannot be denied ; the basis of the advice given is the fact that the ultimate authority in matters of public policy is to be found in the electorate, and that therefore it is normally out of the question for the sovereign to decline reference to the sovereign power. The lack of any qualifying conditions is quite natural, for Lord Aberdeen was merely dealing with a concrete case. The ministry had come into office on the defeat of Lord John Russell's government and the existing House of Commons had not been elected under its auspices. There was, therefore, every reason for it to seek to test the will of the electorate, and in fact it subsequently did so, with the result that it was decisively routed, and the Queen was able to secure Lord Aberdeen's ill-fated ministry in lieu.

It may, however, be doubted whether the Queen really changed her mind regarding the nature of a dissolution, though probably she came to conceive of it as affording a normal means of strengthening the ministry if liked by the Crown, but occasionally as a device for terminating the tenure of office of a government which had incurred her dislike. The dissolution which she gave Lord Palmerston in March 1857 was very possibly meant in a kindly spirit, for she was inclined like him to take a high hand in dealing with foreign powers such as China, and she probably thought that the House of Commons was over-scrupulous when it condemned by 16 votes Lord Palmerston's conduct in the matter of the schooner *Arrow*. At any rate the justification for the dissolution is clear, for Lord Palmerston obtained a

clear majority of over 50 votes, a fact which seems to have encouraged him to overrate his power and to have led to his recklessness in the matter of the Conspiracy to Murder Bill, 1858, which cost him his majority. It is interesting to note that the Queen would have preferred him not to resign, but he persisted in his determination so to act. An interesting issue would have arisen had he asked for a second dissolution, and such a case would not have been covered by Lord Aberdeen's general advice. It is in fact plain that the issue of the time which has passed since a dissolution was given to a minister must always be borne in mind in considering the right of dissolution. It is clear that a ministry which has had a dissolution and has been unsuccessful in securing a majority therein cannot at once have another; but, if it is able to command enough votes to carry on for a time, delicate questions may arise as to when and whether another dissolution was due. The question has never arisen in this precise form in the United Kingdom, but it became of much importance in Canada in the conflict of 1926.<sup>1</sup> The issue which presented itself to the Governor-General took the form whether the request of his Prime Minister for a dissolution should be accorded, seeing that in 1925 he had asked for a dissolution and obtained it without managing in the election to secure a clear majority. The growth of the farmers' movement in the Dominion had in fact brought an accession of strength to the Progressive party, which during the short duration of the Parliament held the balance between the two orthodox parties, and in order to exhibit the de-

<sup>1</sup> Keith, *Responsible Government in the Dominions*, i. 146-52.

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pendence of the government upon it on occasion was niggardly in effective support. In the whole circumstances the Governor-General should have accorded the dissolution asked for, but it is easy to see that he was misled into thinking that it was not fair to allow his Prime Minister two chances of putting matters right.

In 1859 the government of Lord Derby, which had been in a perpetual minority, manfully tackled Parliamentary reform, but on April 1 it suffered defeat, and a dissolution was therefore very properly asked for and accorded with the object of securing for the Crown a majority. But, though the government won 25 seats, this did not suffice to cause Lord Derby to have a majority, and as soon as Lord Palmerston and Lord John Russell came together his downfall was assured, and came on June 10 by 13 votes. No doubt the decision was a disappointment to the Queen.

The government ultimately formed by Lord Palmerston held office successfully and dissolved in view of the passage of time in 1865, returning a majority for Lord Palmerston, who, however, died in October. The ministry of Lord Russell fell in June 1866 on its attempt at reform. The Queen naturally did not want a dissolution and the Cabinet also disliked the idea,<sup>1</sup> so that Lord Derby had to undertake the difficult task of governing in a minority of seventy. His success in dishing the Whigs was a brilliant *tour de force*, and it was ill-health<sup>2</sup> which compelled him in February 1868 to make way for Mr Disraeli.

In April the issue of a dissolution was definitely

<sup>1</sup> *Letters*, ser. 2, i. 339-42.

<sup>2</sup> *Ibid.*, i. 496 ff.

raised, as it was obvious that Mr Gladstone would defeat the government on the issue of the disestablishment of the Irish Church.<sup>1</sup> Should Mr Disraeli resign, leaving it to a new government to set about maturing its plans, or should he ask and receive a dissolution of Parliament, which must be postponed in date until the new electorate had duly been enrolled after the reform scheme had been fully worked out in its details? Mr Disraeli would, of course, have resigned if that had been the deliberate wish of the Queen, but naturally no such idea attracted her. He pointed out also valid reasons for remaining in office pending a dissolution. Mr Gladstone had raised an essentially new issue, which must be submitted to the electorate for its deliberate judgment. Delay in reaching this judgment would be to the good. If, as the Prime Minister and his sovereign hoped, the electorate after full consideration rejected the scheme, all would be for the best. If, unhappily, it did not do so, there would have been nothing lost, since the only effect would be to delay the carrying out of an unfortunate project. At any rate the Queen had no hesitation in according the promise of a dissolution; it remains obscure whether the decision was really her own, as Mr Disraeli asserted in the Commons on May 5, or advised by the Prime Minister. In any case the opposition protested, declaring that immediate resignation was essential, but ultimately a compromise was reached. It was agreed that the ministry should stay in office to carry the remaining matters to perfect the reforms, and that there should be acceleration of the coming into force of the new

<sup>1</sup> *Letters*, ser. 2, i. 523 ff.

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electoral register. The election in November gave the Liberals a majority of 120, and the government set a precedent, with the approval of the Queen, by resigning without meeting Parliament and incurring censure.<sup>1</sup>

In 1873 the defeat of the ministry on the Irish University Bill raised the question of resignation, but Mr Disraeli refused to take office, although the Queen was ready to give him a dissolution. He acted on purely tactical grounds, holding, no doubt correctly, that the moment for success was not yet come, and Mr Gladstone, who did not desire to dissolve, resumed office. Mr Disraeli's excuse was that he should not be compelled to take office in the last months of an expiring Parliament, and that being in opposition he was not in a position to frame issues on which to dissolve, as he had no official information on such issues as the Central Asian question, the new rules of international law, local taxation, and the French treaty of commerce. The excuse was palpably poor, and the Queen seems to have been remarkably fair throughout the whole affair.<sup>2</sup>

In 1874 the grant of a dissolution to Mr Gladstone was necessitated by the obvious difficulties in the country, where by-elections were going against the government to such an extent that it was difficult to fill official vacancies. Moreover in the preceding year it had been necessary to remove Mr Lowe from the Chancellorship of the Exchequer on account of serious errors in regard to mail contracts and telegraph exten-

<sup>1</sup> *Letters*, ser. 2, i. 556 ff. Cf. Lee, *Queen Victoria*, pp. 385-9.

<sup>2</sup> Morley, *Life of Gladstone*, ii. 446-56; Ponsonby, *Sidelights on Queen Victoria*, pp. 88-117; 214 *Parl. Deb.*, 3 s., 1931-4.

sion. Mr Gladstone himself had assumed the office, and the Law Officers advised that there was no need for re-election, but his failure to stand for it was naturally severely attacked by the opposition. He accordingly on January 21, 1874, suddenly apprised his sovereign of his intention to ask with his colleagues for a dissolution.<sup>1</sup> His grounds included the fact that he had important financial changes to propose, the remission of the income tax, and that he realised that the Queen after the events of March 1873 was not prepared to attempt to form a ministry from the opposition until a dissolution had been tried. The Queen, therefore, though warning him that dissolution before meeting Parliament was likely to prejudice the standing of the government, accepted the advice of the Cabinet on the score that an election was necessary to clarify the position.<sup>2</sup> The result was to give the Conservatives a clear majority of 350 seats to Liberals 245 and Irish Home Rulers 57. Mr Gladstone, with the strong approval of the Queen,<sup>3</sup> resigned before meeting Parliament, thus following the precedent of 1868, with the result of saving time for the new ministry to set to work. The Queen probably felt no great regret at the change of government, but it is clear that she had not as yet any strong feeling of hostility to her Prime Minister, though she never forgave him his attempts to induce her to emerge from her seclusion and perform her public duties.

In 1880 the Queen's attitude to a dissolution appears in the form of 1841, the belief that it was

<sup>1</sup> *Letters*, ser. 2, ii. 303.

<sup>2</sup> *Ibid.*, ii. 306.

<sup>3</sup> *Ibid.*, ii. 315-18.



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an appeal to the electors to strengthen a ministry which she liked against faction in Parliament. On February 14 the Prime Minister<sup>1</sup> wrote to her that "if the factious spirit were continued or revived, then they would recommend your Majesty to appeal to your people at all risks." The formal recommendation of dissolution was not long delayed, and the Queen acted with much readiness, for she felt, wrongly as it turned out, that the time chosen was that best suited to secure the return to power of her ministry.<sup>2</sup>

The result of 1880 was to give the Liberals 349 seats to 243 Conservatives and 60 Home Rulers, and distressed deeply the Queen. Not, however, until 1885 did the issue of a dissolution arise again. In 1885 Mr Gladstone was rather unexpectedly defeated on the budget, the voting being 264 to 252 on the issue of increasing the beer and wine duties. The minister felt that he was bound to resign, and demurred to the objections of the Queen, who was doubtless influenced by the fact that, as she was at Balmoral on June 8 when the defeat took place, she was most reluctant to face the trouble involved in securing a new ministry. Mr Gladstone<sup>3</sup> pointed out that, while it had seldom happened that a ministry was defeated on the budget, yet there were incidents in 1841, 1848 and 1852 which supported his view of his duty. Lord Salisbury was very far from anxious to take office, because the franchise had been altered and

<sup>1</sup> *Life*, vi. 512; *Letters*, ser. 2, iii. 71.

<sup>2</sup> A dissolution was discussed in Cabinet in 1878, but dismissed as unjustifiable (Emden, *The People and the Constitution*, pp. 268, 269).

<sup>3</sup> *Letters*, ser. 2, iii. 664 ff.

the redistribution measure, which had finally reached agreement, was due to become operative. It was then necessary to wait until sufficient time had passed to provide for registration of the new electorate. Lord Salisbury therefore sought to obtain from Mr Gladstone assurances of sufficient support on finance matters to enable him to carry on until a dissolution became possible. Mr Gladstone was unwilling to commit himself as definitely as Lord Salisbury would have wished ; but, when Mr Gladstone had definitely stated that there was no idea of withholding ways and means necessary for the public service, the Queen pressed him,<sup>1</sup> very properly, to take this assurance as sufficient and to accept office, which he did, after inducing Sir S. Northcote to go to the Lords as Lord Iddesleigh. Thus Lord Salisbury was able to take the Foreign Office and to meet the demands of Lord Randolph Churchill, who was not prepared to serve under Sir S. Northcote in the Commons. The elections were held on a dissolution granted by the Queen when the due moment had come, and were marked by the transfer of Irish votes to the Conservatives as the outcome of an obscure intrigue between Lord Carnarvon, Lord Salisbury, and Mr Parnell, carefully concealed from the Queen, and the Liberals, though securing 334 seats, were in need of the 86 Home Rulers if they were to be safe against the 250 Conservatives. But the ministry waited to meet Parliament before yielding to Mr Gladstone.<sup>2</sup>

It is clear that the action of Lord Salisbury in accepting office was far more constitutional than the refusal of Mr Disraeli in 1873. As a matter of fact,

<sup>1</sup> *Letters*, ser. 2, iii. 678.

<sup>2</sup> *Ibid.*, iii. 707.

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Lord Salisbury's position was far more unfavourable, as he could not dissolve forthwith, as Mr Disraeli could have, but was patently bound to await the time when a dissolution could be held consistently with the necessity of giving the new electors the opportunity to vote. Moreover Mr Disraeli's plea that he, being in opposition, had no issues to frame was quite untenable. That an opposition should be a party of negations was out of the question. But the real motive was simply the assurance that, if Mr Gladstone remained in office, when in due course he dissolved, he would be certain to fare worse than had the dissolution fallen in 1873, and his majority of 50 seats showed the soundness of his judgment.

In 1886 the question of dissolution arose in a new form. The defeat of the ministry on the Home Rule Bill was assured.<sup>1</sup> Should the Queen grant a dissolution when Mr Gladstone asked for it, or refuse and ask Lord Hartington to form a ministry? With some slight lack of constitutionality the Queen sounded Lord Salisbury before the issue arose. His advice was sound. He deprecated the idea of refusing the dissolution and sending for Lord Hartington. A dissolution on the Home Rule issue would probably give a majority against Mr Gladstone and dispose satisfactorily of the issue. Further, if a dissolution were refused, the Queen could be held up as the obstacle to the improvement of conditions in Ireland. Whether this feeling would diminish her influence seriously was

<sup>1</sup> The vote against the Bill was 341 to 311 (June 6); Mr Parnell revealed Lord Carnarvon's negotiations, of which Lord Salisbury had been cognisant, though he concealed the fact from the Queen (June 14). The Queen urged a dissolution and the Cabinet equally desired one (*Letters*, ser. 3, i. 140 ff.).

difficult to determine, but the risk of such a diminution ought not to be lightly incurred, for her influence was one of the few bonds of cohesion remaining to the community. There can be no doubt of the prudence of the advice that the Queen should not expose herself to the risks of clear partisanship, and clearly to refuse a dissolution would have been most unconstitutional, for the existing House of Commons had been elected under the auspices of the late government, and a perfectly new and vital issue was the ground on which the ministry desired to test the will of the electorate.

Lord Salisbury,<sup>1</sup> therefore, held that to give a dissolution to Mr Gladstone forthwith was more advantageous to the Queen than to refuse it and accord it later to the Conservatives, by which time Mr Gladstone might easily have got up another cry which would blot out the effects of the Home Rule movement. He added also the view that the change of government if hastened would interfere with the royal visit to Balmoral, a consideration of the deepest interest to the Queen, and Mr Goschen<sup>2</sup> reinforced his opinion. The Queen's grant of the dissolution, therefore, after the failure of the Home Rule Bill, was deliberately intended to secure the downfall of the ministry which she so deeply disliked. It is significant of the notoriety of her hatred for her Prime Minister that Mr Goschen warned her that a refusal of a dissolution would be put down to her personal feeling, not to the Home Rule issue.

The Queen was duly rewarded for accepting the

<sup>1</sup> *Letters*, ser. 3, i. 128 ff. ; cf. 146, 147.

<sup>2</sup> *Ibid.*, i. 132.

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advice tendered to her, and the dissolution thus proved the means of ridding her of her reluctant bondage to a Prime Minister who had become anathema to her, and whom she harassed by captious criticisms of his every action. A dissolution thus served the invaluable purpose of releasing her from difficulties, and the coming into office of Lord Salisbury gave her a ministry which she could work with. Her benevolent support was therefore freely accorded,<sup>1</sup> and the ministry was aided by her to overcome the difficulties caused by the erratic conduct of Lord Randolph Churchill. When, therefore, in 1892 she granted the dissolution asked for,<sup>2</sup> it was in the belief that it would strengthen a government she liked, if not with the whole-hearted devotion which she felt for the ministry of Mr Disraeli. In the same spirit she was only too glad to be able to give a dissolution to Lord Salisbury when the disunion of the Liberal party led in 1895 to a resignation without even an attempt to secure a dissolution,<sup>3</sup> and in 1900 again allowed a dissolution for the very necessary purpose of enabling her ministry to secure a popular mandate by appealing to it on the note of a victory, which had still to be won by weary months of fighting and heavy cost in blood and treasure. At the end, therefore, as at the beginning of her reign the Queen could regard dissolution as a means by which she might invite her people to succour a ministry which expressed her views and had her sympathies.

<sup>1</sup> The elections gave Conservatives 316, Unionists 78, Liberals 191, Nationalists 85.

<sup>2</sup> *Letters*, ser. 3, ii. 118, 119.

<sup>3</sup> Lord Salisbury thought Lord Rosebery should dissolve, but the latter refused (*Letters*, ser. 3, ii. 522, 525, 526).

### 3. *The Queen's Right to compel Dissolution*

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But there was another aspect from which the Queen could view a dissolution. If her ministry was not to her liking, a dissolution might serve the purpose of bringing into office a new government which would support her views, as notoriously was the result of the dissolution of 1874. It appears that in 1859 she had had thoughts of the possibility of forcing a dissolution in order to secure the negating of the pro-Italian policy of the Prime Minister and his Foreign Secretary, but, as she had most of the Cabinet through Lord Granville on her side, it never became necessary seriously to consider this step. The position, however, definitely changed after the Queen fell under the influence of Mr Disraeli and began to regard Mr Gladstone without confidence or respect.

The majority which the election of 1892 returned was of the utterly useless character. The Liberals and Labour numbered 274, the followers of Mr McCarthy 72, those of Mr Parnell 9, making a total of 355 votes against Conservatives 269 and Liberal-Unionists 46, a majority of 40. On the other hand, the demand for Home Rule throughout far the greater part of Ireland was insistent and unambiguous, and the only solution obviously lay in according it in some form. It was the fatal difficulty that at the time partition was not recognised as possible. Lord Salisbury had placed the Irish and the Hottentots and Indians on a like level of incapacity for self-government,<sup>1</sup> thereby indicating his own amazing lack of common sense and simple

<sup>1</sup> The Irish Free State has shown the absurdity of this dictum. For this ministry, see Morley, *Life of Gladstone*, ii. 490 ff.

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realities, and the necessary outcome of the election was the futile effort to pass a Home Rule Bill through the Commons when its rejection by the Lords was assured. The Queen, with her devotion to the Lords, was gravely perturbed at the possibility of Mr Gladstone taking the opportunity of the rejection of the Bill by the Lords to launch the attack which in fact he wished to direct against the Lords. She therefore took the decidedly unconstitutional step, without consulting her Prime Minister, to enquire from Lord Salisbury<sup>1</sup> through Lord Rowton, her frequent intermediary in these matters since he won her favour as Mr Disraeli's Private Secretary, whether she could enforce a dissolution, and received an important pronouncement. A Committee of Unionists had been watching the progress of the Home Rule Bill and had considered whether, on its rejection by the Lords, a numerous signed petition or an address from the House of Lords should be presented begging the Queen to exercise her prerogative of dissolution. But opinion was against any such action. "A dissolution by the Queen against the advice of ministers would, of course, involve their resignation. Their party could hardly help going to the country as the opponents of the royal authority; or at least as the severe critics of the mode in which it had been exerted. No one can foresee what the upshot of such a state of things would be. It might be good; or it might be bad. But there must be some hazard that in the end such a step would injure the authority of the Queen." It ought not, therefore, to be taken unless there was an urgent reason for taking it, and

<sup>1</sup> *Letters*, ser. 3, ii. 297-9.

no such reason then existed. Taking the ministerial programme item by item Lord Salisbury showed convincingly that the measures in prospect were certainly such as to promise little electoral advantage for the government in so far as they would be accepted as amended by the Lords, while other measures were assured of their *coup de grâce*. The Queen therefore abandoned her project for the moment.

The issue arose again under Lord Rosebery,<sup>1</sup> for that peer had as early as 1884 laboured to amend the constitution of the upper house and was prepared to attack the issue once more, a view which elicited the hostility of the Queen, who again consulted Lord Salisbury. This time the advent of conditions promising a Conservative victory at the elections affected his advice. The issue presented to him involved two distinct points, the first of which has already been touched upon, the doctrine that a Prime Minister cannot announce a new policy until he has received the sanction for it of the Crown. The doctrine, of course, was destructive of ministerial responsibility, and would if carried out have meant that the Crown must personally accept responsibility for every ministerial plan, an utterly impossible position, explicable only by the fact that Lord Salisbury was born out of time, and in his younger days used to lament that he had not been born under a more actively monarchical constitution; he would far have preferred service to a king than to a Parliament.<sup>2</sup> A man who holds such views is no wise guide under a democracy. Naturally he approved the right of the Crown to require a dissolution before a decision

<sup>1</sup> *Letters*, ser. 3, ii. 433, 434.

<sup>2</sup> *Life*, iii. 180.



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on such a grave matter was taken, and asserted that a dissolution would well suit his party. Much more sensible advice was fortunately forthcoming. The Queen had advanced to the position that she was prepared to inform Rosebery that she could not consent to his proposing a resolution against the mutilation of measures by the upper house without an appeal to the country. Sir Henry James<sup>1</sup> was clear that the Queen had better not insist on a dissolution. He clearly did not agree that there was anything unconstitutional in the submission of a resolution regarding the powers of the upper house, nor that its submission involved the Crown in approval. He regarded it as clear that the Queen could secure a dissolution. But it could only be done in two ways. The Prime Minister might be induced to accept the suggestion ; in that case he would have to explain why he had acted, and the result would be that the dissolution would be regarded as the work of the Queen, and the election might well turn on the treatment of the ministry by the monarchy, to the omission of the issue of the attack on the Lords. On the other hand, if Lord Rosebery declined to agree, as he was constitutionally entitled to do, then the ministry must resign and the Queen would have to obtain other ministers, and dissolve, but the result would not be a clear decision on the issue in question. Happily the Duke of Devonshire and the Duke of Argyll, Mr Chamberlain, and even Mr Balfour seem to have agreed with Sir H. James.

The Queen therefore dropped the project, but the fact that she ever entertained it is eloquent of her

<sup>1</sup> *Letters*, ser. 3, ii. 442-4.

failure to realise the just limits of her authority. Her claim amounted to the proposition that she was entitled at her discretion to secure a dissolution on an emergent issue before it had ever been debated by Parliament. It is hardly necessary to insist that such a claim was incompatible with responsible government.

#### 4. *Edward VII's Dissolutions in 1905 and 1909*

The issue of dissolution presented itself rather early in the king's reign largely because of the fact that the Parliament of 1900, elected on the issue of the South African war, was from the first not effectively representative of the permanent outlook of the public. In it the government possessed a majority far in excess of their position in the electoral returns, and the position was complicated greatly by Mr Chamberlain's propaganda in favour of imperial preference and the measure of protection of industry, which was inseparably bound up with that project, and by the unwise decision to admit Chinese labour to South Africa, a decision brought about by the undue weight in the counsels of the government of those interested in the swift exploitation of the mining wealth of South Africa.

Dissolution came within sight on July 20, 1905, when the government was beaten by four votes on a point regarding the working of the Irish Land Purchase Act, but on July 24 Mr Balfour announced his decision neither to resign nor dissolve, but to seek a reversal of the untoward vote. The step taken was naturally denounced as unconstitutional by Sir

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H. Campbell-Bannerman and as contemptible by Mr Redmond. Mr Lloyd George and Mr Churchill were naturally vehement, and Sir E. Grey asserted that there could be no longer that mutual respect which ought to exist between the House and its leader. Mr Balfour continued to argue that he was entitled to remain in office so long as the House of Commons supported him. It was natural that this doctrine should not have gone without criticism. It seemed to disparage the authority of the Prime Minister over the House of Commons and the rights of the Crown in the matter of deciding whether the House commanded the support of the country. The king was clearly right in demurring to any suggestion that his view could be disregarded when the question arose of the dissolution of Parliament in circumstances which admitted of doubt as to the course to be taken. Moreover, he objected to Mr Balfour's reiterated thesis that the House of Commons could insist on a dissolution. The situation became worse for the government; Mr Balfour's appeal on November 14 for unity fell on deaf ears, the Liberal leaders denounced his ambiguity of fiscal views, Mr Chamberlain on November 21 declared war on the Conservative minority of free traders and the supporters of preference, but without retaliation. The king was opposed quite definitely to mere resignation without meeting Parliament; <sup>1</sup> he reminded Mr Balfour of the difficult position in which he would be placed if the Liberals followed the example of Mr Disraeli in 1873 and refused to accept office, while they could not do so

<sup>1</sup> Lee, *Edward VII*, ii. 184-91; *Journals and Letters of Viscount Esher*, ii. 118 ff.

if he were defeated in the Commons on any vital or test question. Mr Balfour, however, proved unresponsive. He laid before the Cabinet a memorandum in favour of resignation, and saw as the only alternative a dissolution in January. He seems to have put the case for a dissolution to the Cabinet, but without success, and at any rate he decided finally to resign, and the king had perforce to accept his decision. The result was a triumphant vindication of the view that dissolution could not have been more deadly and might have been less decisive. Plainly a government which resigns because it has no working plan to place before the electorate will always be in a most dangerous position.

The second dissolution<sup>1</sup> to be granted by the king was necessitated in December 1909 by the refusal of the House of Lords by a majority of 350 to 75 votes to accept the budget. The action of the peers was beyond doubt extremely unwise, and the unwisdom was not lessened by the patent fact that the backwoodsmen who made their unwonted appearance to destroy the measure were largely dominated by fear of the effect of the land taxation on their personal interests. That the king would grant a dissolution could never have been in doubt, and it was accorded without hesitation. The result was to show that the size of the majority in the House had ceased to represent the public will, now that it was known that the ministry was to be free to press for Home Rule, which Sir H. Campbell-Bannerman had disabled himself from doing by a pledge prior to the election,

<sup>1</sup> Lee, *Edward VII*, ii. 704 ff.; Spender and Asquith, *Lord Oxford*, i. 261 ff.

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but the Home Rule movement had a clear majority of some 124, and that of course was a victory of no small dimensions under the circumstances of the time, though far from as conclusive as the government would have wished.

Shortly after a situation arose in which the king was faced with the possibility of having to dissolve Parliament within three months of its meeting. The Irish members resented the whisky taxation of the budget; they endeavoured to compel the Prime Minister to promise to pass a Bill to override the Lords' veto within the year, and when refused they proposed to withhold their support from the budget. The government must then have resigned and the king must have had to form a new government under most difficult conditions. Happily the issue was accommodated,<sup>1</sup> and the death of the king followed before he was compelled to take up an attitude on the vital issue of swamping the upper chamber. How difficult the position for him was can be seen from the attitude adopted by Mr Balfour. In an interview with the Archbishop of Canterbury, whom it was proposed to use as a mediator, the question was discussed what advice should be given to the king if he were asked by the Liberal government either to create 500 peers to carry the Parliament Bill, or to grant a dissolution with a promise to create peers if the government were successful at the polls. Mr Balfour clearly thought that the king should refuse either suggestion. The ministry would then resign and he would form a government which would recommend a dissolution. He would not attempt to

<sup>1</sup> Lee, *Edward VII*, ii. 700, 701.

govern in a minority nor seek support from Mr Asquith. His treatment of supply would depend on circumstances and on the advice of the Treasury officials.<sup>1</sup>

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It is clear that Mr Balfour's advice was completely unsound, and that it indicated the minimum of regard for the position of the king. The contest which was being waged was so far one between two political parties over the position of the upper chamber. The king was not involved, and he had used very strong language in deprecating that Mr Churchill or any other minister should use words implying that the king was involved in the contest in any way.<sup>2</sup> He was now being advised to place himself in the utterly illogical position of giving Mr Balfour a dissolution refused to Mr Asquith, and forcing the whole question into an onslaught on the partisanship of the Crown. No wonder neither the Archbishop nor Lord Esher showed complete enthusiasm for this programme, and that the former suggested the referendum, and the latter compromise. The truth of the situation was the complete intransigence of Mr Balfour on the Irish issue, which proved his total lack of statesmanship, and, with advisers thus divided in fundamentals, it may be held lucky that the matter was never actually forced to a decision, and that the death of the king saved him from the embarrassment of the further fight over the Parliament Bill, which deeply vexed him.

<sup>1</sup> *Journals and Letters of Viscount Esher*, ii. 456-9. An alternative suggestion seems to have been to replace Mr Asquith by Mr Lloyd George! (Lee, *Edward VII*, ii. 712, 713).

<sup>2</sup> Lee, *Edward VII*, ii. 704, 705.

*5. George V and the Dissolutions of 1910 and 1918*

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The new king could not evade the difficulty, and it fell to him to decide to give the Prime Minister a dissolution when the Conference which was convened with general assent to seek a solution after his father's death failed to achieve agreement. There can be no doubt as to the correctness of the king's decision nor the propriety of the ministry seeking the dissolution. It was far too vital a question to be disposed of merely on the mandate given by the election of 1910, and the conclusion was unavoidable that this presented the final struggle between the supporters of the House of Lords and the maintenance of the Union and the opponents of the veto of the upper house and supporters of Home Rule.

While, however, the election of 1910 formed the mandate which led to the action of the king in securing the passage of the Parliament Act, 1911, and attested his respect for the sovereignty of the people, there remained the legislation to be passed under it, and the Government of Ireland Bill proved to arouse passions far higher than could have seemed possible. The movement to prepare resistance in Northern Ireland, for which Sir E. Carson was responsible, was unquestionably the most fatal step from the point of view of the plans of the Unionists who supported it. It led by necessary sequence to the creation of counter-preparations and to the birth of the Irish Free State; its promoters lived to see the ruin they had wrought, for which their consolation was the existence of Northern Ireland, precariously as that may be based on the bounty of the people

of Great Britain. At the time the movement created great difficulties for the government, which from reasons of expediency and at the fatal suggestion of Mr Redmond failed to prosecute the authors of acts not merely seditious but verging on treason. It was not surprising that a series of other illegalities followed. To the deep consternation of the British public it was reported that the great majority of the officers of the cavalry brigade stationed at the Curragh had resigned their commissions rather than share in putting down a possible revolt in Ulster.<sup>1</sup> The officers were put in a false position by the error of their commanding officer, and after explanations were perhaps justly reinstated, but the Secretary of State for War committed the incredible blunder of stating that the government had no intention of using military discipline in order to crush political opposition to the policy or principles of the Home Rule Bill. This meant, if it had any meaning, that the government was giving a pledge that it would not use military force against the Ulster rebels in any event. Naturally the minister had hastily to be discarded and the only sound principle laid down that officers are not to ask assurances regarding the nature of the duties on which they are to be employed. In order to recall all concerned to their duty the Prime Minister himself assumed the Secretaryship for War, which he therefore held when war broke out and he could make way for Lord Kitchener. This was followed in April by the introduction from Germany at Larne of 25,000 rifles and three million cartridges to be used against the

<sup>1</sup> Oxford, *Fifty Years of Parliament*, ii. 151 ; Spender, *Life*, ii. 39-48 ; Fitzroy, *Memoirs*, ii. 542 ff. ; Gwynn, *John Redmond*, pp. 280 ff.



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army by Ulster volunteers, an act which casts the utmost disgrace on Lord Carson and his associates. Small wonder that Irish Nationalist volunteers sprang up, and in July carried out a like feat at Howth, though there the British troops showed greater activity than at Larne and killed a few of a Dublin mob. It is necessary to recite these facts because they illustrate the height to which feeling had risen. The supporters of Ulster ruined their case by demanding exclusion for the whole province, though in Donegal, Monaghan and Cavan the Nationalists had a clear majority, and the supporters of Home Rule failed to realise the terrible gulf between the peoples of Ireland caused by religious and racial feeling.

The king was during this period the object of constant efforts to induce him to compel a dissolution on the issue,<sup>1</sup> or in other words to dismiss his ministers, since they plainly were not in a position, even if they so desired, to accord their consent to such a mode of action. The opposition contended that a dissolution was necessary because the election of December 1910 had not been fought on the Home Rule issue; the subject had not appeared in the Prime Minister's election address. The Liberals and Irish Nationalists answered that the intention of the government to proceed with the Home Rule policy was common knowledge, and that, after fighting two elections in 1910 to destroy the resistance of the Lords, there would be no further concession. The king secured a conference in July which failed, but he refused to be moved to dismiss the ministry. The end, of course,

<sup>1</sup> Cf. Addison, *Politics from Within*, i. 34-6; Somervell, *George the Fifth*, pp. 84 ff.; Spender, *Life*, ii. 25-30.

cannot be asserted with security ; the outbreak of war prevented any final decision on the issue, and it is to be admitted that wild speculations and rumours were current, and that many people seem to have feared the dismissal of the government and a mild form of *coup d'état*. All that can be said is that nothing then or later done by His Majesty suggests that he would have departed from his course of strict regard to constitutional propriety. Having regard to all the facts, the position was clear that some concession must be made to Ulster. He would no doubt have been able to secure that the Act should not become effective immediately in Ulster, so that before that took place a dissolution would have taken place at which the final will of the electorate would have been expressed. If that had been the case, then no possible justification for the use of the power of dismissal would have arisen, and we may safely assume that the king would never have taken such a step except of absolute necessity.

The war prevented the dissolution by normal efflux of time of Parliament ; there was general agreement that there could not be an election, and the royal assent to the Bills prolonging the life of Parliament was given with full accord of the electorate. But the decision to grant a dissolution in 1918 has been called into question. The complaint is that the ministry was permitted to use the British and allied victory won at the cost of the whole people to achieve a new lease of life for a body which was essentially representative only of one side of political life. Especial indignation was lavished at the coupon, as was styled the letter of approval issued to selected candidates by Mr Bonar

Chapter VII Law and Mr Lloyd George. It was argued that the government might quite properly continue to function to conclude peace, and that, bearing in mind the result of the 1900 election, it was certain that anything but wisdom would mark the action of the electorate in voting under conditions of excitement. This view was strengthened by the unbridled folly of the Prime Minister and his associates, who, finding that the public expected the vanquished to pay for the war in territory and cash, committed themselves to demands quite incompatible with the terms of peace indicated when the President of the United States proclaimed the doctrines on which he held that peace might be made.<sup>1</sup> Mr Bonar Law with his unfailing devotion to his party took care that the coupons should be so assigned that there would be assured a sound Conservative majority, and by doing so set the seal of destruction on the Liberal party.

All this was clear, but how could the king have refused to dissolve a Parliament which had been elected in 1910 and which was manifestly out of date? The will of the people is not necessarily wise, but the duty of the king is not to override its will but to assume that it shall be duly ascertained, and then fairly acted upon. The function of supervising the destinies of the country and supplying the deficiencies of the ministry and electorate, or either of them, does not fall to him. It is a task for which no king could expect to be competent under modern conditions, and only confusion could arise from attempting to give to the king a function beyond his

<sup>1</sup> Churchill, *The World Crisis*, v. 36-51; Mallet, *Lloyd George*, pp. 146-54; Spender, *Life of Lord Oxford*, ii. 310-19.

capacity. It was, therefore, right and proper for the king to accord the dissolution when asked for, and there is no reason to doubt that he fully accepted such action as plainly right.

### 6. *The Dissolutions of 1922-4*

Four years later the issue again presented itself, for Mr Lloyd George suddenly found that Mr Bonar Law, in anxiety to preserve his party from the ills due to the disturbing personality of the leader, had drawn away from him its support for the general election which he had planned. The Carlton Club decision was immediately followed by the Prime Minister's resignation. That his decision was proper cannot be doubted; to have asked for a dissolution with the major part of his followers pledged to an independent course would have been impossible, and, though the king would no doubt have been constitutionally entitled to accord such a dissolution, it was plain that it should not be asked for. On the other hand, the creation of a new ministry on the resignation of the old naturally and properly demanded the grant of the dissolution advised by Mr Bonar Law, and the result, like that of the election of 1918, established the propriety of the royal action, for the ministry was sustained by 412 votes to Labour 151 and Liberals 40.

The circumstances of the dissolution of 1923, on the other hand, were less usual. The demand was made by the new Prime Minister,<sup>1</sup> who had been appointed on Mr Bonar Law's retirement, on the

<sup>1</sup> Wingfield-Stratford, *The Harvest of Victory*, pp. 318-25.

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ground that he contemplated a vital or at least substantial change of fiscal policy, partly in order fully to implement the accord with the Dominions as to imperial preference reached at the Imperial Conference of 1923. The request may have seemed unwise to the king, as it did to many critics not otherwise hostile to the views of Mr Baldwin. It might well have been argued that so soon after a general election it was unwise to place the country into a renewed state of excitement and turmoil, for a comparatively minor purpose. But clearly it would have been impossible on that score to override the deliberate desires of the Prime Minister and his government, and accord was duly given. The electorate took a suitable revenge for the needless difficulty caused by denying Mr Baldwin the mandate which he sought. Conservatives secured 258 seats, Labour 191, and Liberals 158.

Even more troublesome was the issue raised in the following year when Mr MacDonald, finding himself defeated in the Commons, applied for a dissolution. The position was vitally altered from all recent precedents because there were three parties in the Commons, all capable of providing ministries if they could secure the aid of some adherents from the other units. In normal circumstances, if there had been the usual majority government, in the event of defeat it would have been most proper for the ministry to ask for and receive a dissolution in order to dispose of the issue of its relation to the electorate. But Mr Asquith had in 1923 insisted that, with three parties capable of taking office, the old rules must be reviewed, and the practice of the Dominions in like cases could be adduced to establish the rule that in such instances

the king was not only entitled but really bound, instead of granting a dissolution, to ascertain whether a ministry could not be formed out of the existing House. The argument was specious, and it is impossible to assert that the king could not have formed a ministry by asking either the Conservative leader or Mr Asquith to take office. Many arguments could have been adduced to counsel action by one or other, but the essential fact is that the king did not attempt to act on the principle laid down by Mr Asquith. It is admitted that he accorded the dissolution asked for without hesitation. Nor can there be any doubt that his action was sound. True, it was desirable to avoid a third dissolution in three years, but the prime requisite of the situation was the acquisition of an enduring government, and it was probable, nay, certain, that nothing but a vote of the electorate could settle the issue. The view taken by the king was brilliantly justified by the outcome, for the electorate made up its mind that it desired a strong administration, condemned without stint the Liberals for their support of Labour, and weakened without destroying Labour, which secured 151 votes to Liberals 40 and Conservatives 412.

A further consideration must have affected the royal action. The Labour party was new to office, and, if a dissolution had been refused, it is certain that the propriety of the king's action would not have been appreciated, and the idea would have been broadcast in the ranks of the electorate that the king had taken the earliest possible moment to rid himself of a Labour ministry, and had refused it the right to appeal to the electors, although the existing House of

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Commons had been elected under the auspices of its rival. It would have been impossible to dispel this belief in unfairness, and the Crown would have been bitterly assailed, though unjustly, and the unique opportunity would have been lost of showing to the Labour party that from the king it could expect absolutely fair and impartial treatment in all essentials.

### 7. *The Dissolutions of 1931 and 1935*

The election of 1929 was due to the approach of the expiry of Parliament, and it was fought unsuccessfully by the Prime Minister on the maxim of "safety first." But in 1931 the issue of dissolution raised really serious questions. As we have seen, a National government had been installed in office to carry out a drastic scheme of retrenchment and taxation to balance the budget, and it found itself with a majority of about sixty in the Commons. It passed many important Acts, to release the Bank of England from the necessity of paying in gold, to prevent exploitation of foodstuffs, to provide additional revenue, and to impose cuts in emoluments. If it did not save the pound, it stabilised it for a time at sixteen shillings, and the depreciation gave encouragement to export trade, while internal prices were kept reasonably unaltered. But no government can believe itself *functus officio*, and the National government ran true to type. It decided that the crisis was not over, and it could not dissolve. But it could not continue on an emergency basis; the Cabinet must be raised to normal size to provide ministries of Cabinet rank for

worthy adherents, who had suffered from the patriotic decision to co-operate with the Labour leaders. This could be done without an election, but the Conservatives, conscious also of the essential task of the party to conserve itself come what may, decided that an election would be invaluable. It would secure voters wholesale from among the unattached members of the electorate, who had seen the risk of havoc brought by the reckless action of Labour, and who could be warned that their post office deposits were the stake. Such an electorate could give a mandate for tariffs in a way not likely to be possible under normal conditions, and therefore the Conservatives demanded an election. They had the support of the Liberals under Sir John Simon who save in name now became Conservatives, but the Liberals under Sir H. Samuel demurred, and Mr Lloyd George, who had been left out of the National government owing to a most unhappy attack of illness, was entirely opposed to an election; doubtless he had too vivid memories of the "coupon" election to be under any misapprehension as to the result. The Labour members of the Cabinet had now ceased to have any commanding voice; it was plain that they had no following in Parliament and probably none in the country, but they acquiesced perforce in an election. The way to preserve unity was found in the device that no mandate for tariffs should be asked for. Instead the country would be asked to give *carte blanche* for action such as on examination might seem necessary. Sir H. Samuel agreed, Mr Lloyd George refused to concur, and in no great time he had the pleasure of seeing the Cabinet adopting full-fledged protection with a conscience



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clause for dissenting ministers, who on September 28, 1932, had to take the logical step of resigning.

It is clear that the king's decision to accept the advice to dissolve was fully justified. The position of the country was still far from settled. It was patent that a long period of retrenchment and reform of abuses was before the government, and it could not be denied that the majority which it possessed was unduly small. It meant clearly that to persist with it would result in the best energies of the government having to be devoted to fights in the House of Commons under the constant danger of defeat. Ministers who were urgently required to think out policy, and to administer reforms in expenditure, would be harassed by political work and hampered in their decisions by the constant question whether the point might not favour obstruction by the opposition. It was, therefore, in the public interest to accord the dissolution, and the public responded to the reference made to them in a manner so overwhelming (559 to 56 votes) as to show that the refusal of a dissolution would most seriously have misrepresented the country's will.

The dissolution of 1935 raised only minor but not uninteresting questions. It was naturally regarded by the opposition as fixed in order to capitalise for the advantage of the Conservative party the feeling of enthusiasm for League of Nation ideals which had recently been proved to exist by a ballot carried out under the auspices of the League of Nations Union. There was, it was insisted, no real reason for a dissolution at the moment; the opposition was patently anxious to help the government to adopt a foreign

policy calculated to preserve Ethiopia from the utterly illegal and wicked onslaught threatened by Italy in flat defiance of her duties under the League Covenant and the Kellogg Pact of 1928. The Prime Minister defended his decision on October 24, 1935, with much ingenuity.<sup>1</sup> In a long exhibition of thinking aloud he convinced himself and some of his hearers that the moment chosen for the election was the sole convenient time, and that moreover it was imperative that the government, at a time of comparative quiet, should be enabled to secure public backing, on the strength of which it could speak with unquestioned authority when necessary in the difficulties which might have to be faced by Europe. It can hardly be denied that the reasons given were adequate, if by no means overwhelming, and that the assent of the Crown was fully justified. It is true that politically a dissolution proved of great advantage, and that this was no doubt fully present to the mind of the Prime Minister. The chief failure of his ministry had been in the discontent of the Commons with its plan as to grants to unemployed which had resulted in the hasty withdrawal of the scheme of the government. It had proved difficult to devise something less open to attack, and the ministry was doubtless very glad to be able to appeal to foreign complications in order to go to the country without the odium of the contentious proposals which were inevitable if it were to do justice to the unemployed and to the country alike. It is true also that the Hoare-Laval proposals for the settlement of the Ethiopian controversy departed flagrantly from the spirit of League

<sup>1</sup> The election of November 1935 gave 431 to 184 votes.

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policy which the government had promised to observe, and that the government declined absolutely to give more than formal effect to its obligations under the League Covenant, Article 16. But these actions could not be foreseen when the dissolution was granted, and, deplorable as they are, they leave the wisdom of according it unassailed.

One point of form aroused some interest. The Prime Minister, whether intentionally or not, spoke as if the decision to have a dissolution were his personal right. In this he ignored apparently his sovereign, and certainly he seemed to claim the right for the Prime Minister, not the Cabinet. But the facts are clear. Dissolution must be submitted to the king and receive his assent, and a Prime Minister cannot assume that the king is a rubber stamp without showing disrespect to the throne. Further there is convincing evidence, adduced by Mr Swift Macneill and reinforced by the personal knowledge of Mr Asquith, to show that a dissolution is advised by the Cabinet, not the Prime Minister alone. There is no case on record where action has really occurred without the assent of a Cabinet majority,<sup>1</sup> nor is it desirable that the rule should be broken. The power of the Prime Minister is already extensive, based as it is on the modern practice of fighting elections on the personalities of the leaders, and it is most undesirable that it should be assumed or believed that the Prime Minister can dissolve Parliament. He can, of course, dissolve a Cabinet by resignation, but by

<sup>1</sup> See, e.g., the procedure in 1874, Morley, *Life of Gladstone*, ii. 478-96; in 1880, *Letters*, ser. 2, iii. 72; in 1886, *ibid.*, ser. 3, i. 143; in 1892, ii. 118, 119.

resigning he loses power to advise a dissolution. If he wishes one against the will of the Cabinet, his line of action is clear. He must obtain the acceptance by the Crown of his resignation and a commission to form a new Cabinet which will advise dissolution. This form of procedure has in fact most properly been followed in New South Wales, when Mr Lang found himself in a minority in his own cabinet on the issue of dissolution.<sup>1</sup>

The precedents of George V's reign are peculiarly clear. The essential use of the prerogative of dissolution is to attain the verdict of the electorate on the conduct of government and their choice of the party to govern. The employment of the plan is proper, apart from the expiry of Parliament by efflux of time, when a new ministry succeeds another and is in a minority in the Commons, as in 1922; when a ministry, undefeated in the Commons, meditates an important change of policy, as in 1923 and in 1931; when a ministry comes into power after the formation of a new House of Commons and finds that it has not an effective majority therein, as in 1924.

The power to force a dissolution undoubtedly exists, but it means the dismissal of a ministry and the power to find a ministry which will take office and bear the responsibility for the dismissal. This necessarily involves the bringing under the consideration of the electorate the action of the king, and must create the impression that the king is capable of partisanship in politics. It is of such high importance to prevent any such impression that in the great majority of cases this mere possibility rules out any

<sup>1</sup> Keith, *Responsible Government in the Dominions*, i. p. xvii.

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action of the kind, leaving the possible use of this final power for the gravest occasions. But the fact that a power exists only for wise employment in grave crises does not mean that it is obsolete, as is sometimes suggested. The mere fact that a safeguard exists is often and perhaps always will be a sufficient preventive of such unrestrained action as would bring the safeguard into operation. The issue is of special importance in regard to the maintenance of the constitution, which will be discussed below, the conduct of foreign policy on which decisions may be taken of vital and irreparable consequence, and the preservation of law and order against domestic strife of a serious character, menacing the public security.

There is, it may be noted, one weapon which the Crown might use to compel ministers, however reluctantly, to appeal to the country on an issue on which there was a strong divergence of opinion between the Crown and its advisers. That is the threat of abdication, which was occasionally resorted to by Queen Victoria<sup>1</sup> as a method of compelling Mr Disraeli to press forward his colleagues on the road of opposition to Russia during the struggle with Turkey in 1876-8. Edward VII also when in bad health seems to have thought of resigning power. But plainly it would be a dangerous measure. It may be admitted that it might be effective in coercing

<sup>1</sup> Seton-Watson, *Disraeli, Gladstone and the Eastern Question*, pp. 198, 267, 314. In 1871 she was prepared to abdicate if ministers pressed her to stay in England until prorogation (Guedalla, *The Queen and Mr Gladstone*, i. 300). But on May 17, 1885, she wrote: "The Queen writes strongly, but she cannot resign if matters go ill, and her heart bleeds to see such shortsighted humiliating policy pursued" (*Letters*, ser. 2, iii. 646).

ministerial action, for unquestionably a government which forced a sovereign to abdicate would have a very busy time explaining its actions to the electorate, and might fail to convince. On the other hand, if the threat were made and the ministry remained firm, the sovereign would either have to make a humiliating withdrawal or to abdicate, and in that event fatal injury might be found to have been inflicted on the monarchy as well as the sovereign in question. A more general objection is that abdication involves a measure of moral cowardice—when not due to reasons of mental or physical health—and the royal house has never been lacking, with one possible exception, in courage, whether for good or bad.

It may be added that Professor Maitland<sup>1</sup> has doubted the power of the Crown to abdicate except, of course, by virtue of a statute giving legal authority to such action. The position, however, is of no real importance. The country would not wish any king to remain on the throne against his will, and, if it were not desired to pass a statute to regularise the position for any reason, the Law Officers would no doubt discover some ground on which to hold that the abdication was valid.

It should be added that the suggestion sometimes made that the relations between a Governor-General and his ministers should be assimilated to those between the king and his ministers, though solemnly enunciated by the Imperial Conference of 1926, breaks down hopelessly because of the fact that, while abdication of a sovereign would be an *ultima ratio*, the retirement or recall of the Governor-General is

<sup>1</sup> *Constitutional History of England*, p. 344.

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perfectly simple. If ministers and the head of the government do not agree, then the irresistible tendency is to assume that it is the latter who must yield. Granted that the Governor-General might dismiss a ministry, there would be grave political unrest as a consequence, and, if the new government were not sustained by the legislature or the electorate, the Governor-General would virtually have to resign. It is true that it may be argued that, as resignation is not a tragic matter, he may be willing to take risks. But the position now gives the government both the appointment and the removal of the Governor-General, so that a ministry which contemplated such action as would lead to the possibility of its removal by the Governor-General would doubtless take the precaution of securing in advance a Governor-General who could confidently be expected to act as bidden, as in the classic case of the Governor-General of the Irish Free State, who has been reduced to a signing machine.

Curiously enough, while the position of the representative of the Crown in the Dominions has lost in influence in the most marked degree, the existence of the special relations which now characterise the connection of the United Kingdom and the Dominions strengthens the position of the king in the United Kingdom. It would manifestly be most embarrassing to a ministry in the United Kingdom to force the sovereign into abdication. Mr Balfour as early as 1909 clearly realised the power which the Crown might derive from this fact, when he insisted that the king could act as he thought best in the issue regarding the two Houses, since it was he who held together the

several parts of the Empire.<sup>1</sup> But it is to be noted <sup>2</sup> Chapter  
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that Mr Asquith bore emphatic testimony to the fact that George V in the crisis of 1913-14 never lost his head or threatened abdication, though he felt deeply the burden of responsibility entailed.

One further complication arising from the new position of the Dominions may be noted. Suppose that the king were to receive advice from one or more of the Dominions urging measures in the interests of the Empire, for example the restriction of foreign trade, which were disliked by the government of the day, but were in favour with the opposition. Would the king be under any obligation or have any right to press on ministers serious consideration of the Dominion projects, with a request for a dissolution if it were not thought proper to accept them? The same point might clearly arise on Dominion views of foreign policy or of defence; the Dominions might demand abstention from implication in the affairs of Europe or the increase of the British fleet or Air Force in proximity to Australia and New Zealand. The issue is obviously one of the utmost difficulty, but it is patent that it would be extremely difficult for the king to intervene actively to such a degree as to contemplate dismissal. Conceivably circumstances might compel action, but only if the ministry for some reason or other were manifestly unrepresentative of general opinion, as if it had achieved office on the strength of a policy which it failed to implement when in power. The possibility of such a case cannot be denied, after the action of the National government

<sup>1</sup> *Journals and Letters of Viscount Esher*, ii. 421.

<sup>2</sup> *Spender, Life*, ii. 28.



Chapter of 1935 as regards the Hoare-Laval proposals, but it  
VII may be hoped that it will not arise in practice, for  
nothing can be more undesirable than that Dominion  
wishes should seem to effect royal action towards a  
United Kingdom ministry.

## CHAPTER VIII

### THE KING AS THE GUARDIAN OF THE CONSTITUTION

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DE TOCQUEVILLE's dictum that there was no constitution in England was based on the fact that the constitution as he saw it presented no system of safeguards against rash and unlimited change. The criticism was natural enough, but it ignored the reasons which in his time effectively safeguarded the English constitution from rash innovation. The House of Commons itself was so constituted that it could never be revolutionary, the House of Lords outside the sphere of finance had equal powers with the lower chamber, and over and above them all stood the king, whose power persisted in great strength right down to the end of the reign of George IV, despite the poor personal qualities of that unattractive king. The power of the Crown was the greater because, while in French constitutions attempts were made to delimit and define it, in the British constitution it remained unqualified, and therefore of far greater potency. The Crown remains in fact an authority charged with the final duty of preserving the essentials of the constitution. The passing of the Parliament Act, 1911, has weakened enormously the potency of resistance to change of the Lords; it has only enhanced the importance thus left to the action in emergency of the king.

*1. The Reform Bill and William IV*

Chapter      The position of the king became very clear during  
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— the bitter controversies which marked the passing  
into law of the Reform Bill. Though the fact was  
often overlooked, the essential feature of that struggle  
was not innovation in the sense of converting the  
constitution in vital matters. The real aim of the  
Bill was to restore to the constitution fundamental  
features which had ceased to characterise it. The  
essential evil of the constitution as it stood in 1830  
was that the system of representation on which the  
House of Commons should have rested had utterly  
declined from theory. It is quite true that not all  
decayed boroughs had ever been flourishing homes  
of agricultural or industrial activity; Tudors and  
Stuarts were quite capable of summoning burgesses  
from boroughs which from the first were rotten. But  
the fact remains that the utter failure to assimilate  
representation to the population was utterly contrary  
to the constitution. Nothing serious was done to  
recognise the shifting of the population from south and  
east to north and north-west. In 1831 it was stated  
that ten southern counties with 3,260,000 people had  
235 members, six northern counties had 61 members  
for 3,594,000 people, Cornwall with 300,000 inhabi-  
tants had 42 representatives, three times as many  
as the 1,330,000 of Lancashire. Birmingham and  
Manchester had each over a hundred thousand  
inhabitants, but had no members; Leeds and Sheffield  
with over fifty thousand were in like case. But in  
England and Wales there were 36 boroughs with an  
average of less than 25 inhabitants; Gatton was a

park, Old Sarum a deserted hill, the North Sea covered the remains of Dunwich, but all three sent two members to Parliament. But not only was there miserable defects of distribution; the franchise was capriciously assigned in the boroughs, and in the counties the agrarian revolution of the eighteenth century brought about the reduction of the electorate to about a quarter of a million, rather less than one to thirty-five. Nor in many cases was there any really free vote; magnates by one means or another, often by pure bribery, could return members at their will. No doubt these pocket boroughs afforded chances of entry into Parliament of men who else could not have reached that goal, such as Pitt and Fox, but the system was utterly bad.

If, therefore, the system was to be reformed and effect given to the long-matured demand for change, recourse would have to be had to the Crown as custodian of the constitution, for in the way of reform there was not merely the apathy of the Commons, but the active hostility of the great magnates of the House of Lords, whose power seems almost incredible in the light of modern conditions. The will of the electorate and of those who would in any decent system be electors could slowly but at long length make itself felt even on the House of Commons. Thus the dissolution of 1831, already described, was accompanied by such strong indications of the real demand for reform that the House of Commons returned with a clear mandate for the work. But now the necessity of recourse to the Crown was made evident. The House of Lords passed the Bill on second reading only because it was known that the

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king so desired ; even so, by 151 to 116 Lord Lyndhurst carried the postponement of the clauses disfranchising the rotten boroughs. The situation was now critical. Would the king create peers to carry the measure ? Small wonder if William IV shrunk from acting so drastically, and accepted for the moment the resignation of his ministers, though at the levée on May 10 he thrice entreated Lord Brougham not to leave him, and assured Lord Grey that he parted with him with as much regret as did George II with Walpole and George III with Lord North.

But Lord Lyndhurst and the Duke of Wellington soon undeceived him as to his chance of securing a new government ; he realised that the moment had come to give effect to the will of the electorate, and the decision, after the failure of an attempt to get the Bill passed otherwise, to create peers carried the day, for the king, once he had committed himself, was determined to carry through the reform without actually adding to the peerage. He had, thus, so exercised his power as guardian of the constitution to recall it to its true shape. He had exercised the final authority to conform the constitution to the clear will of the electorate. William IV was not an impressive sovereign, and his ideas of constitutional rule were naturally enough rudimentary, but all due credit rests with him for his action in this regard.

## 2. *Queen Victoria and Parliamentary Reform*

The Queen also was instrumental in furthering the interests of the people in regard to constitutional reform. She was far from unreasonable in her attitude

towards moderate reform, and raised no serious difficulties in the period from 1865 to 1867, when the Conservatives passed a measure much more far-reaching than was originally their intention. Her correspondence reveals her misgivings on certain aspects, but she did not push her doubts to any extremes, and there is no doubt that the wider grant than originally expected was popular in the country and that therefore her action was in full accord with her duty.

In 1884-5 the Queen had occasion for more decided and valuable intervention which must always redound to her credit.<sup>1</sup> It is merely unfortunate that efforts have been made to overstress her part, and to give the impression that she took a more independent part than was the case or than would have been proper. It is clear that at first she was opposed to the reforms desired by Mr Gladstone, and her opposition was of course much strengthened by the fact that the House of Lords was hostile, with to some extent justification, because there was cogent force in the demand that no franchise scheme would be adequate without redistribution. It is clear that the Liberal leader had not raised the issue in order to fight the House of Lords, and admitted that the Liberals should have anticipated the constitutional objections which their opponents would properly urge. In the initial stages the Queen was opposed to helping the government; instead, on July 17, 1884, she wrote to the Duke of Argyll in order if possible to induce Mr Gladstone to surrender to the upper house, an impossible position.

<sup>1</sup> Ponsonby, *Sidelights on Queen Victoria*, pp. 159-279; Gladstone, *After Thirty Years*, pp. 360-5.

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But Mr Gladstone's memorandum of August 25 struck her as fair and impartial, and her appreciation of the situation was quickened by a mass demonstration in Hyde Park and the passage of an immense procession along Whitehall; the fact that the Prince of Wales watched from a balcony was hailed as proof of his sympathy with the measure. Even so, on October 7 the Queen still urged against Gladstone that he was attacking the Lords, and only on October 17 did she begin her negotiations to induce the Conservatives to accept a settlement. The government was only too ready to help an accord, and by November 27 all points of importance had been adjusted. There is no doubt of the invaluable character of the services thus rendered in settling for a time a matter which might have raised a serious controversy. The Queen did not like the franchise proposals, and all the more credit belongs to her for realising that the country was entitled in such an issue to her effective care of the constitution.

With her views of the House of Lords it is easy to understand how in this crisis the Queen gave vent to the opinion that a dissolution should have been resorted to before any action was taken, and how she wished Mr Gladstone to resign in order to save the country. She was then, as always,<sup>1</sup> devoted to the Lords as an institution, and probably held that its maintenance was essential to the continued existence of monarchy. It is, therefore, easy to understand the bitterness of her feelings when the chance of reform was presented by the rejection of the Home Rule Bill of 1893, and it was probably fortunate for all concerned that Mr Gladstone's colleagues were not

<sup>1</sup> Cf. *Letters*, ser. 3, ii. 449, 450.

prepared to concur with the aged warrior in a crusade against the upper chamber. As it was, the much milder attitude of Lord Rosebery excited her indignation. As we have already seen, she was determined to secure a dissolution before any motion against the powers of the upper chamber was brought in, and only the prudence of the Conservatives whom she consulted prevented her acting in this sense. She would, of course, have been fully justified in demanding a dissolution before any legislation dealing with the House of Lords was introduced. But that was never in question. Lord Rosebery merely contemplated a motion, and before taking any steps to carry into effect his principles he would have asked for the people's mandate. There can be no possible objection to his position, and the Queen erred in thinking that to pass a motion on such a topic could be deemed to engage the Queen's approval. The point is clear. Constitutional reform must be decided by the electorate; to introduce a measure for that purpose without previously consulting the electors is plainly a breach of constitutional usage which the Crown could object to, but a mere declaration of a motion on future policy lies well within the sphere of legitimate ministerial action.

### 3. *Edward VII and the House of Lords*

The reluctance of his colleagues to back Mr Gladstone in the struggle against the Lords testifies to the extraordinary reluctance on all sides to touch that institution, and reminds us of the really aristocratic basis of every government, Liberal no less than



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Conservative, before that of 1905. The House of Lords, however, had not been exempt from important changes in the character of its personnel, and these had affected its political capacity in a serious degree. Many men had been added to it from the ranks of finance and even industry, and these magnates were not sensitive to the conventions which had kept the House on moderately reasonable terms even with Liberal ministries, at least since the famous device by which Mr Gladstone had asserted the power of the Commons to override the financial objections of the Lords. In 1860 the Lords threw out the proposal to abolish the duties on paper, but Lord Palmerston received the result with complete sang-froid and reported it to the Queen in a spirit of jocularitv.<sup>1</sup> Mr Gladstone had been quite unwilling to share his leader's jovial spirit, and by combining all his fiscal proposals in a single Bill next year he compelled the Lords, though his measure passed only by fifteen votes, to accept what they had rejected in the previous year. It seemed, therefore, as if the contest over finance were settled for good. But this was not to be, and the House of Lords, strengthened if not made wiser by the infusion of new blood, was to engage in a deadly contest with the Liberal government.

The fight was soon joined and the king was from the first gravely perturbed; he noted that Mr Lloyd George was plainly thirsting for the fray and endeavoured to secure greater moderation in language, but the attitude of the Lords on the Education Bill was a source of indignation to the Prime Minister no less than to his fiery Welsh colleague. The king

<sup>1</sup> *Letters*, ser. 1, iii. 116; Morley, *Life of Gladstone*, ii. 30-41, 238, 239.

sought to secure peace. He was reminded by Lord Esher<sup>1</sup> of the step taken in 1869 by the Queen in regard to the issue of the disestablishment of the Irish Church. She had then invited the Archbishop of Canterbury<sup>2</sup> to work with Mr Gladstone for mutual accord, and in the long run the question had been adjusted in a manner honourable to both parties. No account of the Queen's life-work could ignore her utility in this case, nor does it make any difference in principle that the Queen's intervention may have been facilitated by her almost complete indifference to Ireland and her lack of touch with the Irish Church.

The king was successful in securing contact between the Archbishop and his Prime Minister, but the efforts to secure accord failed. The Lords under Lord Lansdowne, who though a most well-meaning man was a very mediocre statesman, finally decided on so amending the Bill that the government could not have been expected to endeavour to set it right. The result then was the deplorable one of a complete deadlock, much to the chagrin of the king, who realised that not only was the Commons insistent but the Lords exigent.<sup>3</sup>

The contest was now joined, and the Lords were warned by a resolution of June 26, 1907, that the government intended to secure that Bills desired by the Commons should be passed within the limits of a single Parliament over the head of the Lords. The Lords cheerfully proceeded to throw out the Land

<sup>1</sup> *Journals and Letters*, ii. 413, 414.

<sup>2</sup> Davidson and Benham, *Life of Taft*, ii. 9; Morley, *Life of Gladstone*, ii. 267-79; *Letters*, ser. 2, i. 603 ff.

<sup>3</sup> Lee, *Edward VII*, ii. 458-67.

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Values (Scotland) Bill of 1907, and so mutilated the Small Holdings (Scotland) Bill that the government dropped it. But the king deprecated being made to say in the speech from the throne at the prorogation of Parliament that he regretted the failure of the Bill to pass, as involving him personally in the conflict, and the ministry acquiesced.

The conflict, however, was to turn mainly on the budget of Mr Lloyd George with its increases in licence duties, income tax and estate and legacy duties and other provisions of novelty and importance. Funds were urgently needed for the Navy as well as for old age pensions, and the king himself thought that they might be needed to meet the possible event of a European war. It was soon obvious that a conflict might ensue; to the references of Mr L. Harcourt to the black hand of the peerage issuing edicts of assassination of many fair measures desired by the people the king took ineffective objection, and Mr McKenna presented an effective case for the denial of the right of the Lords to affect the budget. Essential principles of the constitution were (1) the sole right of the House to control taxation, and (2) that only by the vote of the House of Commons could the life of the government of the day be terminated. If the Lords rejected a Finance Bill they violated both these principles. By claiming to control the budget they could force an election any year they pleased, as it must, for purposes of supplying the necessary funds for administration, be passed annually; its rejection would leave a large deficit which must be filled, and the Lords could say with regard to the proposals for filling the gap that the

government had no mandate. No Finance Bill had ever been thrown out by the Lords, and to do so would be the first step in revolution.<sup>1</sup>

The king must have been struck by the forceful logic of the ministerial memorandum, and he determined to try to exert influence for a settlement, as had been done by his mother in the Irish Church disestablishment issue of 1869 and the franchise controversy of 1884. Unfortunately the circumstances had changed for the worse. The issue of finance had not in the earlier cases been involved, and the principle of 1861 had not been infringed. The king, moreover, lacked the command over Conservative ministers exercised by the Queen through long years of reign, and the Conservative leaders believed that he neither was able nor willing in the ultimate issue to take such measures against the House as ministers might recommend. But he obtained in October 1909 from Lord Cawdor a statement of the opposing view. Lord Cawdor's claim was that the budget was without popular mandate and that the Lords had a clear right and even duty to insist not on rejecting the will of the people but on demanding that the will of the people should be ascertained by a dissolution. The claim was clearly untenable, for it amounted to the assertion that the Lords could dictate a dissolution of Parliament. The same point had cropped up in 1884 over the franchise, and Mr Gladstone had emphatically negatived it then.<sup>2</sup> In the case of finance the claim was preposterous. But the king, who apparently had not consulted his

<sup>1</sup> Lee, *Edward VII*, ii. 666 ff.

<sup>2</sup> *Letters*, ser. 2, iii. 535, 544; Morley, *Life*, iii. 127, 128, 130.

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Prime Minister before asking Lord Cawdor's views, now consulted him as to the propriety of his discussing the issue with Lord Lansdowne and Mr Balfour.<sup>1</sup> But neither would make any concession, for both were obsessed by the idea that they now had a chance of destroying the ministry. They were well aware that the enthusiasm of the majority of the government had long cooled, that Mr Lloyd George had many critics, and that the budget was far from popular in the country. The deeper constitutional issues were ignored, for Lord Lansdowne never showed much appreciation of them and Mr Balfour never saw anything that he did not want to see, and with his keen intellect could easily persuade himself that his attitude was perfectly sound.

In the end, therefore, the Lords declared that their consent to the Finance Bill could not be given until it had been submitted to the judgment of the country, and on December 2 the Commons, by 349 to 134 votes, resolved that the action of the Lords was a breach of the constitution and a usurpation of the rights of the Commons. A dissolution necessarily followed, in which Mr Lloyd George and Mr Churchill, though in different tones, attacked most bitterly the House of Lords. Mr Lloyd George raised a serious difficulty by denying that he would remain in a Liberal Cabinet for an hour unless the Commons could carry Bills in a single Parliament over the heads of the Lords, and by speaking of guarantees. It was naturally but wrongly presumed that a promise had been obtained from the king to use the power to add peers to coerce

<sup>1</sup> Esher, *Journals and Letters*, ii. 418-20; Spender, *Life of Lord Oxford*, i. 305.

the Lords, but this was contrary to fact, for the Prime Minister had deemed it desirable to leave that issue over until it arose. But the matter was widely discussed, and there was plenty of unofficial opinion forthcoming to assure the king that he need not accept ministerial advice to swamp the Lords. The statement was obvious *in vacuo*; in the concrete case all must depend on the result of the election, and on December 10 Mr Asquith assured an audience of ten thousand at the Albert Hall that the government would vindicate the principles of representative government and that "we shall not assume office and shall not hold office unless we can secure the safeguards which experience has shown to be necessary for the legislative utility and honour of the party of progress." There could be no doubt that if the election were won the king would be faced by proposals which could only be carried by his active aid. The Cabinet had envisaged two possibilities,<sup>1</sup> both startling. The first was that the prerogative of creating peers should be transferred for exercise independently of the Crown by the Prime Minister of the day; the second, that the king should promise to create enough peers to pass a Bill to restrict the veto of the Lords. The former proposal was absurdly drastic, but the latter was clearly the one refuge if the constitution were to be preserved from the revolutionary attack of the Lords on the financial powers of the Commons. It is small wonder that the king suffered in spirits and probably in health also at the prospect of having to solve a problem where both sides—and not least the Conservatives—were determined against compromise.

<sup>1</sup> Lee, *Edward VII*, ii. 671. See also Spender, *Life*, i. 273 ff.

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At this juncture the king expressed to Lord Crewe his views on a possible solution on the lines of giving to the leaders of the government and the opposition the right to select fifty members of the Lords in each Parliament who alone would be able to vote, though other peers could speak. He thought in this way moderate opinion would be found operative. He admitted the difficulty that either leader might nominate extreme party men, but thought that difficulty might be overcome. The matter went no further, and the problem of an effective and not obstructive upper house remains as far from solution as ever. But the episode is important, for it indicates that, if he had lived, the king would have striven for accord along the line of securing in the upper chamber a balance of power between the great parties in lieu of the dominant position of the Conservatives.

Mr Asquith for his part refused to ask any pledge from the king until the actual necessity arose. The speech from the throne on February 15 was by ministers, not by the king, so worded as to make it clear that he was not personally committed to the course of altering the relations of the Houses so as to secure that the Commons should prevail absolutely in finance and be predominant in legislation. The announcement of Mr Asquith that he had asked for and received no pledge made the position more than ever difficult, and it was complicated by the objections of the Irish members to part of the budget and their desire to use their position on this matter to extort a promise from Mr Asquith of the Veto Bill within the year. The king had to face the possibility of resignation of Mr Asquith on the Finance Bill. He then

would virtually have to send for Mr Balfour or for Mr Lloyd George, whom the king did not like ; he never served as minister in attendance during the whole of the reign. The prospect of a dissolution, with an appallingly bitter election to follow, was dreary to the king. Moreover the issue rose : was he prepared to accept the advice formally tendered by Mr Asquith in his submission of April 13 that " the necessary steps be taken to ensure that the policy approved by the House of Commons by large majorities should be given statutory effect in Parliament " ? In effect this meant : Would he pledge himself to create peers if need be to carry the necessary legislation ? This, of course, was not a pledge which he was bound to give, and Lord Crewe was too sound a constitutionalist to suggest that he must accept, nor was the industry of Lord Esher, with his reference to the attitude of Lord Grey on May 9, 1832, necessary to prove that the king had an alternative. That was plain, but it was the alternative of finding ministers to take responsibility for the refusal and to assume the duty of securing a majority at the election which must follow. Moreover, that would be no ordinary election, but one in which the opposition would denounce unreservedly the action of the king and, whatever its result, the position of the monarchy would be gravely disturbed. In the long run the king could hardly have failed to accept advice, for he would easily convince himself that he dare not trust the chance of obtaining another ministry. Lord Esher himself knew the risks, for on January 4 he wrote,<sup>1</sup> on the assumption, which proved to be false, that

<sup>1</sup> *Journals and Letters*, ii. 433.



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Mr Asquith would ask on February 10 for a pledge to create peers: "If the king says yes, he mortally offends the whole Tory party to which he is naturally bound. If he says no, he lets loose all the Radical gutter press at his position as a sovereign and his person as a man. A charming dilemma, full of revolutionary possibilities." Lord Esher did not realise that the Lords had begun the revolution, and that the king was being asked to intervene to restore to the constitution the balance of which it had been deprived. Inevitably, however, it was impossible merely to undo the wrong; the progress of democratic ideas made the struggle spread into wider fields.

#### 4. *George V and Constitutional Reform*

The problem was left for his son to solve, and for a moment regret for the death of the sovereign made an accommodation seem possible. A conference of four Liberals and four Conservatives debated the issue from June to November, but in vain. It seems to have been thought that a Joint Committee might mediate on ordinary differences, while on constitutional change, that is Home Rule, a referendum<sup>1</sup> would decide. Plainly the proposal had nothing in it to take the fancy of Liberals. They believed, as it turned out rightly, that the country had not changed in view and that they could count on their majority. A dissolution followed, justified by the change of sovereign and the desirability of settling once for all the issue of the people's will. The election was

<sup>1</sup> See Mr Asquith, April 28, 1910; Lee, *Edward VII*, ii. 710; Spender, *Life*, i. 285 ff.

marked by the amazing efforts of the Conservatives to win support by advocating House of Lords reform and the use of the referendum primarily to settle constitutional issues, but also even tariff reform and food taxes. The innovation was wild and undermined the assertion of the Conservatives that they were essentially the support of the constitution, which they were offering to subject to a procedure unknown to British practice and of the most dubious value. Their defeat was neither unexpected nor undeserved. The electorate would indeed have been unworthy if they had altered their conviction in under a year's time.

The decision to take the verdict of the electorate made the final acceptance by the king of the necessity of giving a pledge in November 1910 certain; there was no possible alternative, and the earnest efforts of the Conservative party to show that the sovereign was under no obligation to give such a pledge were mere waste energy. To ask him to defy the will of the people and to thwart their purpose was fantastic. One absurdity of the situation was the stress repeatedly laid on the fact that the majority was largely composed of Irish Nationalists. But, as the maintenance of the Union was the essential demand of the opposition, their objection to these votes being counted was a contradiction *in adjecto*. In the result the king's pledge was made known to the opposition at the king's own wish in a letter published on July 22, and Mr Balfour and Lord Lansdowne were willing to abandon the struggle. But it was not easy to destroy the Frankenstein they had created, and it required the solemn warning of Lord Morley on August 10, when he gave the substance of the royal undertaking,

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to secure the passing of the Bill by 131 votes to 114. The virulence of the opposition of Lord Halsbury and his friends was unworthy and added dishonour to the accusation of stupidity and unconstitutionality levied at them.

The Act accorded complete power to the Commons over finance measures certified as such by the Speaker, whose decision was made free from challenge in any court, and reduced the power of the Lords in general legislation by empowering the passing of legislation over its head if a Bill were thrice passed by the Commons, subject to a minimum period of two years. The way was open for the legislation necessary to fulfil the pledges of the ministry, and two Bills were seriously proceeded with: that to disestablish the Welsh Church, duly passed, was suspended during the war and ultimately after the war was amended in certain details by ordinary legislation in 1919,<sup>1</sup> and became operative, to the great ultimate good of the Church. The other was doomed to be a failure. The disputes over it were bitter in the extreme, and the situation was aggravated by the appearance of the illegal Ulster Volunteers, pledged to resist the placing of Ulster under any legislature other than that of the United Kingdom, and subsequently by the development of the National Volunteers, precursors of the Irish Republican Army which was to convert the Free State virtually into a republic. The government decided to meet Ulster's wishes to the extent of permitting contracting out by counties, Belfast and Londonderry being treated in that category for this

<sup>1</sup> 4 & 5 Geo. V, c. 88; 9 & 10 Geo. V, c. 65; Ridges, *Constitutional History of England* (ed. Keith), pp. 427-9.

purpose, for six years, which meant of course that there would be ample opportunity for the electorate to alter or repeal its decision. But Sir E. Carson refused the concession, nominally because of the time limit, but largely because five counties and Londonderry were deemed likely to accept Home Rule. Long negotiations followed; an amending Bill presented to the Lords on June 23 was altered severely, and in the hope of securing accord the king at Mr Asquith's advice summoned a conference, which sat on July 21 to 24, but failed to reach accord. Two Ulster representatives and two Nationalists sat with Mr Asquith, Mr Lloyd George, Lord Lansdowne, and Mr Bonar Law, the Speaker being chairman, but no accord could be reached on the area to be excluded temporarily or permanently from the Act, Tyrone and Fermanagh creating the essential difficulty, though the time limit was not disposed of. The government then decided to propose in the Commons on July 30, when the Lords' amendments fell to be discussed, to proceed with county option but without automatic inclusion after a fixed date, but with an option of inclusion as suggested by Sir E. Carson at the conference. But the breaking out of hostilities was then so close that ordinary procedure was difficult. The king hoped that in view of the Irish response to the danger there might be accommodation, but the Conservatives would concede nothing, thus throwing away the last chance of preserving the union of the kingdoms. The government, therefore, had to content itself with suspending the operation of the Act, which became law over the head of the House of Lords, for a year or a later date if the war were not over, and

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with giving two pledges : (1) that Parliament should have full opportunity of passing an Amending Act before the main measure became operative, and (2) the government would not countenance or consent to the use of force for the coercion of Ulster.

The king was thus saved from a most difficult position.<sup>1</sup> The opposition was determined to press him without remission for action. Lord Lansdowne insisted that the passing of the Parliament Act had taken away the power of the Lords to kill a Bill or force a dissolution on it, and that accordingly it fell to the king to stop an undesirable measure. The king might constitutionally (1) force a dissolution, or (2) insist on a referendum. He denied that there would be serious trouble in Southern Ireland if the Bill were rejected, and he dismissed as absurd and impracticable contracting out for Ulster. These two views are sufficient comment on the claim of that peer to be a constitutional authority and a judge of realities.

Mr Balfour was infinitely more subtle. He distinguished between the case where the king was opposed to the proposals of his ministry and that where he was impartial or in agreement with ministers. In the former case he could not act against ministers ; in the latter he could safely insist on an election, addressing the country and making it clear why he acted, and assuring it that he would accept wholeheartedly the result.

Mr Bonar Law took the view that the king had the clear right to dismiss the ministry if it would not advise a dissolution and to appoint a new ministry, which would then dissolve and have the decision of

<sup>1</sup> Spender, *Life of Lord Oxford*, ii. 25-34.

the electorate. But he recognised that whatever he did he would offend deeply one-half of his people,<sup>1</sup> and that he could not avoid personal responsibility and its attendant risks. It was uncertain whether the monarchy would suffer more from the hostility of the extreme supporters of the government if he acted against it, or from the resentment of Ulster and the supporters of Ulster if he supported it. If the government proceeded to act against Ulster without the moral support of a fresh election, the leaders of the Unionist party would be bound to support Ulster, and it was doubtful if the army would act against it. If an election were held, the Unionists would accept the result, ceasing to encourage resistance by Ulster if defeated, and reducing by half Irish representation if victorious.

Lord Rosebery declared, contrary to the view of Lord Halsbury,<sup>2</sup> that to refuse assent to a Bill would be unconstitutional and a *coup d'état*, and urged a conference to seek a settlement which would satisfy the conscience of Ulster and Great Britain. Failing that, the king should place his position and difficulties before ministers and demand a formal reply.

Mr Asquith pointed out that the issue, whether envisaged as refusal of assent or dismissal of ministers, was closely analogous to that fought out with the Lords on the right asserted by the latter to have the power to cause a dissolution of Parliament. The Lords had been defeated on that, and it was most undesirable that the issue should be put at an election

<sup>1</sup> Speech at Edinburgh, January 24, 1913.

<sup>2</sup> November 5, 1913. Cf. Anson and Dicey, *The Times*, Sept. 10 and 15, 1913.

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whether the Crown had the power denied to the Lords. The Crown, if the right existed, would be involved in the greatest difficulties. There would be those who demanded that a dissolution be held on the Disestablishment of the Church in Wales ; when there was a Conservative government, there would be Liberal demands of like character, and if the king refused he would always be denounced as a partisan. A political veto could be exercised by an elective President, not by a constitutional sovereign. If it was deplorable for the king to be associated with civil war, it was equally deplorable to have to face rebellion. The solution lay in compromise. If a dissolution were held, it would not solve the issue, whatever the result, nor would it be fought on that alone ; votes would depend on the insurance scheme, the Marconi contract, and other issues. It would not secure the acceptance of Home Rule by Ulster, as the Unionists admitted. It would, if the Unionists won, leave them with the bitter revolt of Southern Ireland to face. Moreover the Parliament Act had been passed expressly to give the Commons the right to pass legislation in a single Parliament, and that right could not be whittled away. He declined, therefore, to resign and allow another ministry to dissolve, leaving it for the king to decide whether to compel his resignation or dismiss outright. He took further the unanswerable position that all needs might be met by having a general election before the Act came into effective operation.

It is quite clear that the position of the king was most serious, but it is equally clear that Lord Rosebery's advice was much sounder than that of the

Conservatives and that Mr Asquith's position was irrefutable. The king was confronted with a ministry in office which had been sustained by two elections. By-elections showed doubtless no great enthusiasm for Home Rule, but at the lowest acquiescence in it as inevitable and as a preliminary to further devolution. The king could have insisted on a dissolution only if he had the strongest reasons to believe that the Conservatives would have obtained a majority and thus have justified his action, and no one then would have advised him of the probability of any such result. He was therefore entitled to adhere to the essential principle, which Mr Asquith effectively reiterated, of responsible government, obeyed by Queen Victoria, that of accepting ministerial advice. William IV had not dismissed Lord Melbourne, but even so, his action in 1834 had proved neither well advised nor fortunate. The success of Lord Melbourne at the election had disparaged the authority of the Crown. It was perfectly obvious that whatever the king did he would in fact be blamed, but, if he accepted ministerial advice, he would be in an infinitely superior constitutional position than if he rejected it. We may confidently suppose that the king would have adhered to the constitutional rule.

The Irish question was left through the war unsolved, efforts in 1916-18 after the Easter rebellion breaking down on Ulster obstinacy,<sup>1</sup> and it was disposed of by the arbitrament of war.<sup>2</sup> In the long

<sup>1</sup> Spender, *Life of Lord Oxford*, ii. 213-24; Gwynn, *John Redmond*, pp. 499 ff., 552 ff.

<sup>2</sup> Churchill, *The World Crisis*, v. 277-352; Pakenham, *Peace by Ordeal* (1935).



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run the victory fell to the weaker side, but to that which despite its crimes was deeply conscious of a righteous cause. When physical means of resistance were at their last gasp, Mr Lloyd George's resolution collapsed and the negotiations were begun which led to an unsatisfactory peace, leading inevitably to the horrors of a civil war in which the measures of barbarism applied to the British forces were transferred to the republicans.

For the errors of this policy it is clear that the king was not to blame. He earnestly backed the efforts of his ministry to secure an arrangement by the enactment of the Government of Ireland Act, 1920. He opened in person the first Parliament of Northern Ireland on June 22, 1921, and his words were emphatic: "I speak from a full heart when I pray that my coming to Ireland to-day may prove to be the first step towards an end of strife among her people, whatever their race or creed."<sup>1</sup> It is true, of course, as officially pointed out by Mr Lloyd George on July 29, that the responsibility for the speech rested on ministers, but it would be absurd to suppose that it did not express the king's earnest hope. The assertion that he had taken decisive measures of pressure on ministers to achieve their agreement to treat with Mr de Valera is doubtless a misstatement. But it is clear that the action taken was congenial to him, and that he was strongly aware of the discredit cast upon the Empire at a critical moment in European history by the spectacle of rebellion and reprisals. That the Irish peace achieved was so unsatisfactory

<sup>1</sup> Churchill, *The World Crisis*, v. 294, 295; Pakenham, *Peace by Ordeal*, pp. 76, 77.

was doubtless as much a cause of regret to him as to the rest of his subjects. Chapter  
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Of the attitude of the king to the fundamental constitutional changes which altered entirely the structure of his Empire we shall speak below. But he concurred frankly and willingly in the remarkable measures of 1918 and 1928 which transformed the electorate. Prior to 1918 the basis of the franchise was so ordered as to give some assurance of responsibility and judgment. The Act of 1918, by making suffrage available to male adults and to females of thirty, destroyed any real qualification for men, and the Act of 1928 placed women in an equally favoured position. Neither innovation would have appealed to Queen Victoria, to whom the movement for women's rights was anathema,<sup>1</sup> and Edward VII frankly hated <sup>2</sup> the suffrage movement in its application to women, degraded as it was in his time by despicable tactics, seemingly inspired by the desire to prove to all impartial onlookers that women were utterly unfit for the right they were demanding. Necessarily this extension of the suffrage rendered the democracy more and more formidable in power as against the Crown. But the king accepted the decision as being in accordance with the will of the people, and at least the grant of the suffrage on so unlimited a scale had the merit of taking the franchise question out of politics. Otherwise the Labour party would have exploited the issue for all that it was worth. Yet the king's accommodation to the new ideas was singularly creditable to a man who had grown up in so different a milieu.

<sup>1</sup> Hardie, *Queen Victoria*, pp. 139, 140.

<sup>2</sup> Lee, *Edward VII*, ii. 467, 468, 652-4.

### 5. *The King, the Parliament Act, and the House of Lords*

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There remains to be considered the right of the Crown to maintain the constitutional position of the House of Lords as established under the Parliament Act, 1911. The issue was discussed especially in 1934 with some energy in Labour political circles, because the programme of the Labour party included in its ambit the intention to effect under emergency legislation the complete overthrow of the economic system of the country. It was thought necessary for this purpose to pass legislation empowering the Crown to make Orders in Council for effecting the economic changes and penalising persons such as bankers who might seek to hamper the good work by mobilising the economic resources, which are held by the Labour party to have been instrumental in the destruction of the Labour government of 1929–31. As resistance from the House of Lords to such legislation would be certain, and as it would probably be impossible to effect what was requisite by money bills exempt under the Parliament Act from control by the upper house, it would be necessary to secure authority over that body. The proposal most in vogue seems to have been that the party, if victorious, should refuse to take office except with a pledge from the king to swamp the upper house if it proved unwilling forthwith to give the government the plenitude of power demanded. The claim is a very great one. It virtually is that the result of a single election is to authorise the immediate destruction of the House of Lords and of the existing economic system. The

obvious answer to the claim is that it could be admitted solely if the electorate showed itself overwhelmingly in favour of the project. Otherwise the king could plainly not be entitled to disregard the deliberate settlement which has accorded to the upper house a power of delay. Such a power would seem of singular value when it is a question of a wholesale alteration of the financial and economic structure of the realm. The Labour argument that, if the business cannot be accomplished forthwith, it may never be carried through, is hardly the sort of argument to appeal to the prudent citizen, and certainly there is very little possibility of agreeing that the king would be obliged to act as ministers desired. He could almost certainly, if the mandate was not overwhelming, persuade ministers to proceed under the Parliament Act, and, if they would not take office, he might easily enough secure some sort of alternative government which might carry on for a time and then dissolve. The whole question would certainly present many difficulties, and the probability at an early date of such a Labour victory as would induce drastic royal action is extremely slight. But there is a danger in the dropping by many of the Labour intelligentsia of the doctrine of gradualism. The continuity of the constitution has been a great source of strength, and it is ominous when a leader of the standing of Sir Stafford Cripps prophesies (January 7, 1934) that resistance to necessary reforms would certainly come from the entourage of the throne, if not the king personally. The reception given to that attitude by the main body of Labour leaders encourages the belief that it is widely realised that the king claims no power to defeat

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the will of the people, and that his sole authority rests in the right to secure that the will which is effective is the true will, and not a mere momentary aberration. That such aberrations may exist is sufficiently proved by the elections of 1900 and 1918, both of which returned to power ministries who were far from representing the permanent mind of the country. An electorate which votes in a fit of war enthusiasm is not to be trusted to express the best interests of the realm, and that a power of resistance to change sufficient to demand delay for mature thought should exist is most desirable in the public interest.

There is a further consideration, the importance of which must be emphasised. Though it is convenient to treat the results of elections as marking the will of the electorate, there remains the fact that the system of single-member constituencies and the growing anomalies of distribution of seats, taken in conjunction with the system of voting, result in the complete failure of elections to return numbers of members in any way proportionate to the votes cast for the different parties. It is always difficult to estimate precisely what the results would have been with due regard to numbers, since the uncontested seats introduce an element of guesswork. But in 1900 the Conservative majority of 134 should rather have been 16, the 354 Liberal majority of 1906 should not have exceeded 95, the 472 seats of the Coalition in 1918 corresponded to about 52 per cent. of the votes. In 1922 the Conservatives with 38 per cent. of the votes secured 347 seats, in 1923 with the same percentage the total of seats fell to 258, but 47 per cent. of the votes in 1924 brought them 412 seats. In 1929

the Conservatives with 38 per cent. of the votes had 258 seats, Labour with 36 per cent. 289 seats, and the Liberals with 23 per cent. only 58 seats. In 1931 the Conservatives won 473 seats in lieu of about 270. In 1935, 11,780,000 votes secured for the National government 405 contested seats, 8,325,000 won for Labour 141 seats, and 1,445,000 secured 21 Liberal seats; thus roughly 29,000 votes secured a government seat, 59,000 a Labour seat, and 69,000 a Liberal seat. In the eleven southern counties of England 2,068,000 Conservative voters, with other supporters of the National government, secured 77 seats, while 836,000 Labour supporters did not win a seat, but a like number in the West Riding secured 24 seats, and in the London area 760,000 won 22 seats. These utterly anomalous results show how difficult it is to urge respect for the numbers in the Commons. The voice of the people is not in any adequate measure thus declared, and the necessity of some independent authority which can measure the strength of public feeling by further considerations than those affecting the mere numerical strength of parties in the Commons is essentially established.

If proportional representation were in force, it is plain that no party would be in a position of sufficient strength to carry proposals of a radical character which would not represent the general will of the country. If radical measures in any sphere are really desired by the people, then it is no part of the Crown's rights to oppose them, but, so long as the machinery for determining the real will of the people is so imperfect as it is, the value of the Crown is patent. Nothing is more significant than the abandonment

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by the Labour party of the respect it used to pay to proportional representation. The change is plainly due to the recognition of the great difficulty, if that system were introduced, of securing a majority sufficient to carry into effect many projects which the Labour intelligentsia would like to rush through Parliament under emergency legislation and to enforce on the public at large. This is due to the conviction that the process of educating the public to revolutionary change is both slow and uncertain, whereas changes hurriedly carried out by Parliament and supported by the active minority of advanced Socialists might so affect the social and economic structure as to be incapable of change by any later government. The dangers of this revolutionary doctrine are patent, and it may well be that the powers of the Crown may have to be evoked to insist that there shall be no fundamental change unless and until the electorate in general has been persuaded of its necessity.

There is, in fact, much justice in the view of Lord Esher in the issue of 1909, when he commented on the conversations of the king with opposition leaders<sup>1</sup>: "What, if I may venture to say so, it seemed to me the king intended, was to interpret the wish of the majority of his people, and his view was evidently that they wish for some accommodation between the two parties, if accommodation is possible." It may well be that in effect this was the predominant desire in 1909, and that the essential error then made by the Conservative party was to think that accommoda-

<sup>1</sup> *Journals and Letters*, ii. 420. Cf. Mr Asquith's account of George V's views, *Life*, ii. 28, 34 ff.

tion was unnecessary, and that they could insist on their point of view. But the success of democracy rests essentially on compromise, for that is inherent in its nature, and to ignore this fact is one of the most potent causes for the decline of democratic institutions. In the heat of the 1913-14 contest over Home Rule the idea was mooted of refusal by the House of Lords to pass the annual Army Act as a means of preventing coercion of Ulster by the government, but wiser counsels prevailed, for such an act would have been a revolution.<sup>1</sup>

It follows, of course, that any Conservative attempt to restore the powers of the Lords without first putting the issue to the country would have to be resisted by the king.<sup>2</sup> The duty of maintaining, until otherwise decided by the electorate, the compromise of the Parliament Act applies to Conservative no less than Labour efforts to defeat it. Fortunately Mr Baldwin's repeated intimation that the government has no plan of reform renders hasty and unconstitutional tampering with it most improbable.

<sup>1</sup> Spender, *Life of Lord Oxford*, ii. 28 (March 1914); Gwynn, *John Redmond*, pp. 277 ff.

<sup>2</sup> Keith, *Letters on Imperial Relations*, 1916-35, pp. 254-8, 275.



## CHAPTER IX

### THE RELATIONS OF THE KING AND HIS MINISTERS DURING THEIR TENURE OF OFFICE

#### 1. *William IV and the Principles of Responsible Government*

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— THE essential basis of responsible government is that actions of the king, who is irresponsible, are performed on the advice of ministers who are responsible, and who may lose their offices if they fail to win the approval of the public for the royal acts. From this it follows that the king owes to his ministers, whose responsibility serves as the shield between him and the people, certain duties, which Sir W. Anson<sup>1</sup> has formulated with absolute accuracy. He should not take advice from others in matters of state unknown to them; he should not give public expression to opinions on matters of state without consulting them, and, it may be added, without conforming his opinions to their views so far as they desire; and so long as they remain in office he should accept the advice tendered to him by them as a cabinet and lend them his support. There is plainly nothing recondite in these principles. They follow directly from the very idea of responsible government, but it is not at all surprising that only slowly have they come to be

<sup>1</sup> *The Crown* (ed. Keith), i. 139 ff.

recognised effectively in practice. But that does not mean that it is anachronistic to apply them to the conduct of William IV. The progress of the constitution, together with the Reform Act of 1832, had brought about a situation in which these maxims had full weight, and, what is for our purpose decisive, their nature and the grounds on which they rested were fully appreciated by the statesmen of the day and their sovereign.

It was necessary for Lord Grey to call his master to order on each of these principles. In November 1831 the Duke of Wellington made what was intended to be a supreme effort to break the fetters of the king by inducing him to insist on a new government. He addressed him on the danger involved in the arming of political societies at the crisis of the Reform Bill agitation. The king replied, though he did not take the duke's hint, and the Cabinet thought it well to draw his attention to the error he had committed; Lord Grey wrote that "it might produce inconvenience if His Majesty were to express opinions to any but his confidential servants in matters which may come under their consideration." The king did not contest their view, and promised that in future he would merely acknowledge such communications. There is, of course, no reason to suppose that he refrained from accepting advice from his Tory friends after the fall of the Peel ministry; he hated the presence of his ministers, refused to invite them to Windsor, and surrounded himself by extreme Tories who naturally were not reticent in their views of governmental measures. But that after all is not so serious as was his action in the Duke of Wellington's

Chapter IX case, for private discussions are less offensive than public utterances.

As regards expression of official views contrary to those of ministers, William IV was often to blame. On colonial affairs he had formed conceptions of his prerogative reminiscent of those of George III, and it is a melancholy reflection that, if he had lived, it is most improbable that Lord Durham's report would ever have been written or if written would have been acted upon. On the occasion of the swearing in of Sir C. Grey as member of the Commission which spent its efforts fruitlessly in Canada from 1835 he reflected severely on the advice tendered by the Colonial Secretary, Lord Glenelg. The Cabinet resented the attack; they remonstrated with the king for action which might hereafter "restrain the freedom of that advice which it is the duty of every one of your Majesty's confidential servants to offer to your Majesty without reserve." More bluntly, according to Greville,<sup>1</sup> Lord Melbourne told the king that it was impossible to carry on the government if he did such things. Yet a few days later in addressing Lord Gosford, the new Governor, he warned him what he was about in Canada. "By God, I will never consent to alienate the Crown lands, nor to make the Council elective. Mind me, my Lord, the Cabinet is not my Cabinet; they had better take care, or by God, I will have them impeached." In 1836 he expressed to his ministers the fixed conviction that no colony should have an elective council,<sup>2</sup> but that was done in the proper manner of normal intercourse, and as often

<sup>1</sup> *Memoirs*, iii. 279, 283.

<sup>2</sup> *Melbourne Papers*, pp. 349, 350.

he would have yielded, had the matter been finally argued out. Chapter  
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On the other hand, the king could do his best to aid ministers when he pleased ; his aid was invaluable in securing the passage of the Reform Bill, though he liked it little. But his normal attitude after 1835 was rather that of sulky acquiescence than of active co-operation. An amusing tale runs that, when Lord Brougham urged him to read George III's correspondence to appreciate how his father had supported his ministers, he replied : " But George III, my Lord, was a party man, which I am not in the least."

## 2. *Queen Victoria and her Ministers*

Many as were the virtues of Queen Victoria, it is impossible to regard her as conforming rigidly to the rules of constitutional monarchy. It is easy enough to understand her position ; her temperament was naturally imperious and self-willed ; her husband was a wise and good man, whose merits have been obscured by the legend of Albert the Good, but who was a convinced believer in the duty of the sovereign to assert his rights, and the passage of time lent her ever-increasing certainty of her superior knowledge and judgment. She had never been accustomed to the society of equals, and everything tended to obscure her sense of the limitations on her action.

In the matter of taking advice from outside sources without regard to her ministers of the day, the Queen was a very bad offender, but her habit began in youth, and it does not seem as if she ever fully realised that she was acting unfairly. Lord Melbourne was in

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part to blame. When he left her in 1841 he continued to correspond with her, though his remarks on politics proper gradually diminished, and it may be said that in her intimation to Sir R. Peel of his selection as her Prime Minister she had indicated that she would not cease correspondence with her former mentor. Moreover everyone must have realised that she held Lord Melbourne for good reason in a relation that approached parental. Baron Stockmar, however, saw the true facts when he insisted that the interchange was an essential injustice to Sir Robert's present situation and that "a continued correspondence of that sort must be fraught with imminent danger to the Queen, especially to Lord Melbourne and to the state."<sup>1</sup> He warned Lord Melbourne vainly, and it is significant that Sir R. Peel said: "On this I must insist, and I do assure you that moment I was to learn that the Queen takes advice upon public matters in another place, I shall throw up; for such a thing I conceive the country could not stand, and I would not remain an hour, whatever the consequences of my resignation may be."<sup>2</sup> Fortunately the Prince succeeded in filling Lord Melbourne's place, and he enjoyed in high measure the confidence of Sir R. Peel.

It was not to be expected that the Queen would ever change her habit in this regard, and we find repeated examples of her seeking advice outside her ministry. In some cases, of course, such action was legitimate. Clearly when an important constitutional

<sup>1</sup> *Letters*, ser. 1, i. 427.

<sup>2</sup> *Ibid.*, i. 454. A peer has a right to seek an audience to offer counsel, but on such occasions the Crown does not discuss, but returns a formal reply (Melbourne, *Letters*, ser. 1, i. 431).

issue arises the Crown is not confined to the necessarily interested advice of ministers, but may seek counsel from other sources. As Lord Melbourne had instilled into the Queen the conception of a dissolution as an appeal to her people for her government, it was natural that, confronted with Lord Derby's unwelcome request in 1852, she should have had recourse to Lord Aberdeen, whose advice is classical, as shown elsewhere. But the Queen should have informed her Prime Minister of her intention thus to act, a fact the Queen would not admit. This temperament led her to receive a rebuke from Lord Palmerston over a vacant canonry at Westminster when the Queen wished to have more than one name submitted for consideration: "This in some degree implies a reference of a recommendation by one of your Majesty's responsible advisers to the judgment of your Majesty's irresponsible advisers in such matters."<sup>1</sup> The Queen's reply was to insist on her right, when any person was recommended to her, to make inquiries in various quarters of the qualifications of those recommended to her. In fact on this issue she habitually referred as of course to Dr Randall Davidson, who acted as a wise and prudent guide, never failing to remember the rights of ministers as well as those of the Crown.

The really serious aspect of this position dates from the time when politics became a matter of Disraeli *versus* Gladstone. The Queen then began to forget entirely her duty to her Prime Minister, when on April 9, 1880, she intimated her intention of corresponding informally "on many a private subject and

<sup>1</sup> *Letters*, ser. 2, i. 236. Dr. Davidson's advice was treated officially as non-existent; Bell, i. 165.

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without any one being astonished or offended, and even more without any one knowing about it. . . . You can be of such use to me about my family and other things and about great public questions." It is quite impossible to excuse this arrangement, and it is explicable only on the no doubt correct assumption that the Queen was honestly convinced that her Prime Minister was a dangerous man whom she must, in the public interest as well as her own, endeavour to control.

The same attitude was revealed again when Mr Gladstone was last in power and when he was succeeded by Lord Rosebery. Behind the back of her Prime Minister the Queen consulted in 1893 Lord Salisbury, and in 1894 Salisbury, Sir H. James, the Duke of Devonshire, Mr Balfour and Mr Chamberlain, regarding plans for the ejection of her ministry. It is well to note that Lord Salisbury was perfectly well aware that it was quite irregular<sup>1</sup> : "it will always be his duty and his pleasure as a former servant of your Majesty and as a Privy Councillor to answer any questions which you may think fit to put to him." The absurdity of the doctrine enunciated is patent ; as Maitland<sup>2</sup> pointed out, such a view as to the rights of Privy Councillors would soon make the constitution topsy-turvy. Nothing but political prejudice can explain how the action of Lord Salisbury has been approved in this regard, even though it is admitted that the Queen ought probably to have told her Prime Minister.<sup>3</sup> In point of fact the Queen did not

<sup>1</sup> He does not claim any right as a peer, no doubt as that was virtually obsolete.

<sup>2</sup> Maitland, *Constitutional History*, p. 401.

<sup>3</sup> Marriott, *Queen Victoria and her Ministers*, p. 181.

dare to inform even the supine Lord Rosebery that she was asking advice how to dismiss him from office. Had she done so, even he would not have failed to resign office on the ground of the unconstitutional action of the sovereign. The plain truth is that to consult a former minister without the consent of the Prime Minister is a breach of duty and of honour not less reprehensible in a sovereign than in a man.

The Queen naturally enough on military matters took constantly the advice of her cousin, who was for most of her reign her Commander-in-Chief, and received information and suggestions from other persons on these and other topics. But the objection to such receipt of advice is not serious. The point of the rule refers to advice from rival politicians and the sovereign might, and may, listen to whatever opinions of non-political persons he desires. Moreover, in fact it is plainly the duty of the Private Secretary to become a storehouse of knowledge not merely of facts but of opinions, so as to be able to help the Crown by prudent suggestion. Of this habit and duty there is abundant evidence in the records; it neither could nor should be otherwise.

Needless to say, the position on the expected resignation of a ministry is different. The sovereign has the plain right to take such counsel as he desires to find a new government, and the responsibility for his action will fall on the minister who accepts office. A slightly different view of the position is suggested by Lord Salisbury, who argued in January 1886<sup>1</sup> that he should take responsibility during the consultations on the ministerial crisis for the Queen's interviews, in

<sup>1</sup> *Letters*, ser. 3, i. 24; cf. Mr Goschen's view, i. 26, 27, 33 n. 1.



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special that proposed with Mr Goschen. In former days Lord Lansdowne in 1855 and the Duke of Wellington in 1851 had thus been consulted. The point here, however, is that the Queen was going to consult as to what she should do and whom she might choose, and not to offer the duty of forming a ministry. The issue, however, is of no real consequence; the technical point was clearly present to Lord Salisbury that there cannot be any acceptance of a resignation finally until there is a new minister,<sup>1</sup> so that the Queen can never be without advice, for which the outgoing Prime Minister must be responsible. But this doctrine appears purely technical, though plainly the outgoing Prime Minister is expected to remain in office until his successor is appointed.

The rule that the Crown shall not comment on public affairs contrary to the views of the ministry applies strictly to public comments, and clearly demands prudence and caution in regard to private observations. The Queen was early reminded by Sir R. Peel that comments on official matters, such as issues affecting the government of India, should be made not in her private correspondence with the Governor-General but through her servants, but she naturally did not discontinue her habit of correspondence. At times she decidedly ran serious risks through lack of discretion, and received a distinct rebuke from Lord Palmerston<sup>2</sup> regarding her views on Denmark and Germany in 1864, which had leaked out no doubt through her entourage. Quite inexcusable was the suggestion that she made to the Dowager Duchess of Roxburghe in 1886 when her

<sup>1</sup> *Letters*, ser. 3, i. 26.<sup>2</sup> *Ibid.*, ser. 2, i. 186.

daughter-in-law refused the post of Mistress of the Robes ; she suggested that the Duke might put into the papers that the offer had been declined because the Duke could not support the government's Irish policy. Something of this kind she would like to appear.<sup>1</sup> In the same spirit she allowed herself to write on April 11, 1886, to Lord Hartington<sup>2</sup> to congratulate him on his speech and express her hope that these dangerous and ill-judged measures for unhappy Ireland will be defeated ; she was evidently conscious that this was going far, for she prefaced her appreciation by the words, "As this is no party question but one which concerns the safety, honour and welfare of her dominions." Plainly the issue was essentially a party issue, and the Queen was infinitely too well informed to believe her own contention. Not less remarkable is the advice which she gave to Lady Wolseley to urge her husband to put pressure on the ministry by a threat of resignation, on the ground that her ministry was more incorrigible than ever. The Queen wrote in strict confidence, evidently well aware that thus to act against her ministers was indefensible.<sup>3</sup>

The essential thing, however, which Queen Victoria failed to recognise is the necessity for the sovereign to co-operate with ministers so long as they remain in office. The reason for the duty is simple, but the Queen never appreciated it. The obligation arises simply because ministers are the chosen representatives of the people and, so long as they remain such,

<sup>1</sup> *Letters*, ser. 3, i. 51.<sup>2</sup> *Ibid.*, i. 102.<sup>3</sup> *Ibid.*, ser. 2, iii. 619. See Gladstone, *After Thirty Years*, pp. 369, 370.

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in thwarting them the sovereign is fighting not the ministers as individuals but the public will, to which as a constitutional monarch she is bound to give effect. To Queen Victoria, however, matters presented themselves very differently.<sup>1</sup> She had responsibilities for public policy of her own, and she was therefore, in her opinion, bound to combat the policy of her ministers if it did not command her approbation. Thus she was unable ever to accommodate herself to new ideals, and the fundamental difference between her and Mr Gladstone can ultimately be traced back to the fact that his opinions altered to accord with the changes in the national outlook and national needs, while his sovereign's remained unchanging. Hence her feeling that she was ever engaged in a struggle to preserve the rights of the Crown regarded as something which could be separated from the fulfilment of the public will.

In her earlier ministries, when vital new issues had not come to the front, the Queen's attitude was mainly based on personal feeling. Her liking for Lord Melbourne was succeeded by respect for Sir R. Peel, and her subsequent ministries up to that of Mr Gladstone in 1868 had no great cause of complaint. Her attitude to Lord Derby on the issue of the Indian army illustrates the imperious character of her temper and nearly led to his resignation. But even Mr Gladstone she was willing at first to help: his disestablishment plan for the Irish Church was undoubtedly helped by her intervention and discussions with the Archbishop of Canterbury, and in 1884 in the franchise

<sup>1</sup> Cf. Strachey, *Queen Victoria*, pp. 161-82, 201-12, for the Prince Consort's influence.

and redistribution issue she could show an effective desire to secure a settlement of the question. It is true that at first in that question she was chiefly animated by hostility to Mr Gladstone, but she came round to appreciation of the strength of his case in the end.

But in the main her attitude towards Mr Gladstone after 1880 was unconstitutional. It must be remembered that she had enjoyed the feeling for the years immediately preceding of being the power which guided the destinies of Europe. The asseverations of Mr Disraeli on this head were incessant and to modern taste incredible, but it is inconceivable that they did not impress the Queen with a false sense of her own power. It is worth remembering that Lord Derby questioned the wisdom of impressing on her her own importance in the scheme of government by his excessive deference and humble gratitude for any small favour. With the change the Queen could not accommodate herself. It is curious to find her position defended by the assertion, "small wonder that the Queen's reception of a minister thus forced upon her by the electorate should have been something less than cordial."<sup>1</sup> This is wholly to mistake the duty of a sovereign, which is to respect the will of the people and within the limits of its authority to further the manifestation of that will. The disaster was that the Queen could not take that view. Mr Gladstone's ministry appeared to her unwise and she felt bound to dispute with it and keep it in check. Home Rulers seemed to her rebels, and so when the fall of Lord Salisbury's cabinet in 1885 was inevitable

<sup>1</sup> Marriott, *Queen Victoria and her Ministers*, p. 158.

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she sought spontaneously to secure action by Sir W. Harcourt to arrange a coalition of Liberals and Whigs under Lord Hartington in order to keep Mr Gladstone and Lord R. Churchill out of office.<sup>1</sup> In the same way she urged Mr Goschen and Mr Forster to rally to her new party. Such action clearly implies that the Crown has the right and duty to have a personal policy, and that is precisely what is inconsistent with the fundamental principles of responsible government.

Hence it followed that the Queen's attitude to her ministry throughout this period was one of scarce disguised distrust. She all but precipitated their resignation by her telegraphing her regrets regarding Gordon's death *en clair*, and thus permitting the possibility of it being known that the Queen had censured her ministers. Her disapproval of their foreign policy was marked, and she nearly brought about resignation by trying to eliminate from the speech from the throne in 1881 allusion to the evacuation of Candahar; their South African policy she bitterly disliked. Instead of confidence in her Prime Minister she worried him regarding matters outside his jurisdiction, such as the tone of Mr Chamberlain's speeches, and a chance visit to Copenhagen on the spur of the moment was censured in an unmannerly manner.<sup>2</sup> The contrast between her attitude to Mr Disraeli remains painful.

Friction was renewed, after a time of peaceful co-operation with Lord Salisbury, when the last Gladstone Cabinet was formed. The issue was of course difficult, for the Prime Minister had but a small

<sup>1</sup> Gardiner, *Harcourt*, i. 552.

<sup>2</sup> Gladstone, *After Thirty Years*, pp. 365-7.

majority, but it must be remembered that the country has often been governed by ministries in a minority in the House of Commons. But the Queen was simply and undisguisedly hostile to the chief measure of the government; she made no attempt to conceal her disagreement and within a year was intriguing to oust her ministers. Even Lord Rosebery for all his courtliness and devotion was suspect. His mild scheme for reform of the House of Lords seemed to her most dangerous, his speeches on it radical to a degree to be almost communistic. The upper chamber, like the rest of the constitution as she understood it, was a sacred trust. She lacked wholly the idea of development to meet new ideals, she disliked Sir W. Harcourt's death duties,<sup>1</sup> and a motion for payment of Members of Parliament in 1895 horrified her, as it would lower still further the House of Commons. She had not in fact even approached the stage of accepting her duty to move with her people, nor was it really to be expected that she could do so. But her extreme hostility to Mr Gladstone was due to personal reasons, her attachment to Mr Disraeli and indignation at his defeat. Nothing, however, can excuse the coldness of her parting<sup>2</sup> from the greatest politician of her day and one whose reverence for her position seems to modern minds almost undignified in its intensity. It must remain the most serious blot on a life and reign in many respects unique.

To Lord Salisbury<sup>3</sup> she showed on the whole a

<sup>1</sup> Gardiner, *Harcourt*, ii. 289, 298-300; *Letters*, ser. 3, ii. 414, 415.

<sup>2</sup> Ponsonby, *Sidelights on Queen Victoria*, pp. 280-96.

<sup>3</sup> Lady G. Cecil, *Life*, iii. 179-92. Her attitude over Lord Iddesleigh's supersession in 1887 is significant of her feelings (*Letters*, ser. 3, i. 254 ff.).

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pleasing aspect of her personality. He was willing to allow her to assert herself in all matters that were not of first-rate importance; the latter he reserved for himself, and he was so indifferent to retention of office save on his own terms and so securely established in power that there was neither need for nor probability of friction. Even on such an issue as the appointment of her son as Commander-in-Chief he was ready to refuse her request if he thought fit, and Dr Davidson's promotion tarried during his regime far more than pleased the Queen. But he had the merit that in most matters he was as Conservative as she herself, and that formed an effective bond of union.

The support of the Queen was of special value to Lord Salisbury because of the difficulties caused to his position by the meteoric career and wayward disposition of Lord R. Churchill. On July 17, 1885, he offended deeply the Queen by his condemnation of Lord Spencer's administration, though he had to vote with the government in refusing to reopen the question of the Maamtrasna murder case. Lord Salisbury had to excuse with regret his colleague's action, on the ground that it represented the view which he had taken when in opposition, and that members of a government must agree as to the course to be pursued in the future but could not be required to agree regarding what took place in the past.<sup>1</sup> Lord R. Churchill no doubt resented his sovereign's attitude, and retaliated by tendering his resignation on the ground that the Queen had privately consulted the Viceroy through Lord Salisbury regarding the

<sup>1</sup> *Letters*, ser. 2, iii. 686 ff.

fitness for the command at Bombay of Prince Arthur. Lord Dufferin obtained in his usual courtier-like manner favourable reports from Sir D. Stewart and Sir F. Roberts, which she caused to be communicated to Lord R. Churchill through the Prime Minister. Of course technically the Queen was quite wrong, since she should have acted direct through the Secretary of State for India, but luckily, "‘having taken calomel,’ as Lord Salisbury amusingly words it," he decided not to resign. But he repaid the Queen's irregular action by inducing the Cabinet to veto the appointment on the ground that, as an extra member of the Governor's Council, he would have to advise on political matters, which would not be proper in a Prince of the Blood Royal. The Queen with a good deal of reason considered this decision absurd, but the limits of her authority are clearly indicated in the fact that, though with very bad grace, she had to allow the Prince to be relegated to command at Rawalpindi.<sup>1</sup>

Yet the Queen was ready to support Lord R. Churchill against Mr Gladstone, and made a most disingenuous defence of him when Mr Gladstone commented on his utterance in the Commons on May 20, 1886, of the doctrine to which a few days later he gave classic and fatal form in the words, "Ulster will fight and Ulster will be right."<sup>2</sup> Mr Gladstone explained that he had refrained from dealing firmly with this attitude because "in this country law and obedience were happily so strong that no one, however high, could shake them," the doctrine had

<sup>1</sup> *Letters*, ser. 2, iii. 689, 690, 703.

<sup>2</sup> *Ibid.*, ser. 3, i. 133.



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not been defended by any of his colleagues, and he was unwilling to mix exciting matter of this kind with the great issue of the Irish Government Bill. But he compared the attitude of Lord R. Churchill with that of Smith O'Brien, who announced to the House of Commons his intention to go to Ireland and levy war on the Queen, and the Queen seized on the comparison to point out that Lord R. Churchill was only maintaining what was still the law of the United Kingdom, thus ignoring the whole point of the declaration, which was that of encouraging resistance to legislation if and when passed. Little did the Queen realise that the attitude of Lord R. Churchill was ultimately to create the Irish Republican Army, and to eliminate the British Crown from any connection with the internal government of Ireland.

It cannot be said that Lord R. Churchill showed much appreciation of the consideration lavished on him by all members of the government. On the question of military and naval expenditure he quarrelled with the heads of the War Office and Admiralty, with the result that he suddenly resigned when he found that the Prime Minister was not prepared to overrule them and lose their services for his sake. It is significant of the relation of the Prime Minister to the Cabinet that Lord R. Churchill did not even have the courtesy to let the Queen know his decision before it was published,<sup>1</sup> a mark of disrespect which greatly displeased her. Nor did he lessen his offence by stating, to her deep indignation, that the Queen was anxious to make war on Russia in order to replace Prince Alexander of Battenberg on the throne of

<sup>1</sup> *Letters*, ser. 3, i. 232, 233.

Bulgaria.<sup>1</sup> Fortunately Mr Goschen's acceptance of the Chancellorship of the Exchequer relieved the Salisbury ministry and stabilised politics, to the Queen's deep satisfaction. It had been Lord Salisbury's desire that Lord Hartington should take the Prime Ministership, but this he refused to do unless the Conservative leader by resignation made it clear that he could not carry on.<sup>2</sup> On the other hand, he pressed Mr Goschen to assist and the Queen urged the same course, with the result desired. Moreover Mr Goschen's suggestion seems to have aided Lord Salisbury in taking from Lord Iddesleigh the Foreign Office. By Lord Salisbury's gross carelessness Lord Iddesleigh learned from the *Standard* of his removal, and a fitting touch of tragedy was added by his sudden death on January 12 at 10 Downing Street.

One curious aspect of the Queen's position falls to be noted, her constant efforts to prevent ministers whom she disliked addressing the public and disseminating their views. Mr Gladstone was always incurring her displeasure either for his own or his colleagues' speeches, as for instance the attacks in 1884 of Mr Chamberlain on the House of Lords, and she denied the validity of his claim that he had no general jurisdiction over the speeches of their colleagues and no right to prescribe their tone and colour.<sup>3</sup> The Queen demurred to this in principle, but without success. Naturally she shared the dislike of his opponents for the addresses to the electors by which, especially in Midlothian<sup>4</sup> in 1879, Mr Gladstone

<sup>1</sup> *Letters*, ser. 3, i. 259, 260.

<sup>2</sup> Lady G. Cecil, *Life of Salisbury*, iii. 338 ff.

<sup>3</sup> *Letters*, ser. 2, iii. 524, 526-8.

<sup>4</sup> Morley, *Life*, ii. 584-97.

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brought issues home to the people, and when in office in 1886 he applied the same methods to the question of Home Rule she strongly protested.<sup>1</sup> Mr Gladstone pointed out that since 1880 Lord Salisbury and Lord Iddesleigh had so acted, and that he felt it requisite to use every means to place the true issues before the country, but this did not satisfy her judgment. Curiously enough it was Lord Salisbury who innovated in 1892 by publishing an election address directed to the whole of the electorate. Lord Rosebery, like his former leader, received many admonitions against using provocative language.<sup>2</sup> All that the matter came to, if examined accurately, was that the Queen disliked exceedingly any efforts to instruct the electorate in views which were not those which Lord Beaconsfield had implanted into her mind. Plainly her position was wholly unconstitutional, and in fact it had no effect on Mr Gladstone nor probably on anyone except Lord Rosebery, who lacked the true flair for politics, and was destined to remain sterile.

### 3. *Edward VII's Position as a Constitutional Monarch*

When the conduct of Edward VII in relation to ministers is considered, there is at once apparent the great gulf between his outlook and that of his mother. Though he had inherited some of her traits, his character had from the first been deeply affected by his love of people and society, and he had never shared her aloofness from the trends of modern life.

<sup>1</sup> *Letters*, ser. 3, i. 149, 150.

<sup>2</sup> *Ibid.*, ii. 534. The Queen even rebuked him for Mr Gully's selection as Speaker; Mr Courtney was refused Conservative support (ii. 493 ff.).

The Queen regarded with dismay his devotion to amusement, and she unquestionably failed in her duty regarding his education in affairs of state. His father certainly would have insisted on employing him, and he himself would have been willing to be attached to departments of state for the purpose of studying public business. It would have been a most useful plan to accept this project, and it would no doubt have gratified the Prince to be able to add work to sport, each enhancing the pleasure of the other. Mr Gladstone, in his devotion to the throne, was most anxious to employ him as the Queen's representative in Ireland,<sup>1</sup> but the Queen seems to have thought that the Prince would merely attend race meetings more freely than ever, and all other ideas of finding him work broke down. In 1880 for the first time he appears as active in promoting the formation of the ministry, and only in 1886 did Lord Rosebery admit him, without the antecedent permission of the Queen, to the right of having the Foreign Office despatches circulated to him, not merely those which go to all the Cabinet but even the arcana which are sent out in boxes to which only the sovereign, the Prime Minister, and the Foreign Office have keys, that used by the Prince Consort having been found. Cabinet decisions came under Lord Beaconsfield and later to be made known to him, but the Queen appears to have remained in the dark until 1892, when she was duly shocked. It was, however, made clear that, while the Prince was duly kept *au courant*, no dissensions in the Cabinet or matters affecting the Queen personally were mentioned to him. Even so, the

<sup>1</sup> *Letters*, ser. 2, ii. 192, 201, 230; he himself demurred.

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Queen distrusted his discretion so much that it was required that he should return to the Prime Minister the transcripts sent to him.<sup>1</sup> But henceforward, it may be said, he was in possession of the necessary knowledge, though it may be that his character had suffered from years of comparative ignorance of affairs.

It is true that apologies<sup>2</sup> have been found for the Queen, and she has been held to have been justified in thinking that he was not capable of any profound thought and was not "equipped to reach the standard of sagacity and wide vision which she had been accustomed to in her husband." But the holder of this view is also of opinion that the king had nothing but charm of manner and superficial tact, without real knowledge or judgment, and this is a very dubious verdict. Moreover the Queen precluded the excuse from being valid, because the failure to give her son official employment began at a time when above all it was proper to divert his mind to work. It is true that he shared many of his mother's prejudices, that he was at heart a Palmerstonian, and on such issues as the conflict between Russia and Turkey, Afghanistan, Egypt, and Home Rule he shared her views, though unlike her he was all in favour of Denmark in 1864, and as early as 1866, on the eve of the Austro-Prussian war, saw in an entente with France the hope of European peace. But he never was a personal antagonist of men of advanced

<sup>1</sup> Lee, *Edward VII*, i. 216, 217. See H. Bolitho, *Victoria, the Widow and her Son* (1934), pp. 100 ff.

<sup>2</sup> Ponsonby, *The Observer*, July 1, 1934; Hardie, *Queen Victoria*, pp. 187 ff.

views. He could deal with Sir C. Dilke, with Mr Chamberlain, and Mr Gladstone with courtesy and bonhomie, and his letter to the latter on his final retirement from office in 1894 is as creditable to his good sense and instinctive courtesy as the farewell of the Queen is the reverse.

It is easy, in view of his past, to understand that the king found it possible to accommodate himself to ministries in a way which was impossible for his mother. Moreover he entered into all he did with a heartiness peculiarly gratifying to all concerned. This was marked in the case of Ireland ; it is interesting to speculate whether Irish feeling could not have been won over had his desire<sup>1</sup> for the establishment there of his son as Viceroy been fulfilled, or in lieu visits of six weeks by his son. Mr Balfour was dissuaded by Mr Lecky from approval and a great opportunity passed away. But the king was warmly sympathetic to the plan of Mr Wyndham and Sir A. MacDonnell, and it was on his personal urging that the latter declined the offer of the high office of Governor of Bombay. The royal visit of 1903 seemed to show that personal action would help, in conjunction with the new policy of land purchase and the limitation of absentee landlords, to bring peace to Ireland. Another visit in 1904 attested his continued interest, and he maintained direct relations with Sir A. MacDonnell and was satisfied that he was justified in the support which he gave with, he thought, the sanction of Mr Wyndham, to the devolution suggestions of Lord Dunraven's Irish Reform Association. In the ultimate issue Mr Wyndham resigned, and another step was

<sup>1</sup> Lee, *Edward VII*, ii. 162.

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taken towards the destruction of royal sovereignty in Ireland, but the king's support doubtless explains why Sir A. MacDonnell was allowed to remain in office until 1908, when under the Liberal regime he retired with a peerage. In the preceding year Lord Aberdeen as well as Sir A. MacDonnell and Mr Birrell, the Irish Secretary, had fallen under the king's just censure for the mysterious episode of the theft of the state jewels of the Order of St Patrick from the Office-of-Arms at Dublin Castle. The episode of the discovery of the loss during his last visit to Ireland marred greatly the king's stay, and after enquiry the Ulster King-of-Arms was removed from office on the ground that there had been laxity in the custody of the keys. It is characteristic of the king's good sense that he should have gone out of his way to ask Mr Long on his retirement from office to give all assistance to Mr Bryce, the new Secretary, in mastering the problems of his office.

The vital issue of protection, which early reared its head to disturb the happiness of a ministry elected on a victory, evoked the king's close attention. A change of ministry or a dissolution he naturally deprecated, and he caught at the idea of gaining time and knowledge by the expedient of a Royal Commission. But Mr Balfour was unwilling to accept this solution, which might have the disadvantage of compelling him to make up his own mind, for all he was convinced of was, as *Some Economic Notes on Insular Free-trade* shows, that retaliation was necessary to combat the increase of foreign tariffs and the growth of trusts. The king was perturbed by Mr Chamberlain's resignation and endeavoured to have notification thereof

held over, but it had been made public, and the effort to patch up a truce could not be made. It was in vain also that the king again urged Mr Balfour to consider the project of a Royal Commission when Mr Chamberlain carried out his project of setting up a non-political committee of experts to devise a scientific tariff. None the less the king was unfaltering in his support for the Prime Minister when to Mr Chamberlain's resignation were added those of Mr Ritchie, Lord George Hamilton, Lord Balfour of Burleigh, and Mr Arthur Elliot, and when the Duke of Devonshire at last cleared up his ideas sufficiently<sup>1</sup> to determine that he must resign. He aided his ministers in finding men to fill the gaps; it was on his suggestion that Lord Londonderry was made President of the Council, being so declared at a Council held at Wynyard, the first case of such action in a country house of a subject since Charles I held a Council at Wilton in 1625. To his suggestion also Sir W. Anson owed his succession to Lord Londonderry as President of the Board of Education. It was with reluctance that he accepted Mr Arnold-Forster as War Secretary, and not without reason.

This attitude, so far, was not vitally different from that of Queen Victoria when Lord Salisbury was in office. The sovereign was helpful, but reserved the right to add warning and criticism to encouragement. The testing time came when a ministry, the first in British history not to be fundamentally aristocratic in composition, came into being, and the king's knowledge of the world enabled him to accommodate himself to the new circumstances with dignity and

<sup>1</sup> Fitzroy, *Memoirs*, i. 149-60.



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effect. It was not easy for him to agree to all the measures now placed before him. The removal of the Chinese from the Rand was a direct reversal of a policy which he had concurred in, though censuring the manner in which his name had been used by Mr Lyttelton when announcing the royal approbation of the ordinance of 1904 providing for it, and he considered that it should not have been determined upon without full consultation with Lord Selborne. In this attitude naturally he was moved by the strong feelings of financiers who were interested in the gold mines and whom he had long held in friendship, but his attitude was strictly constitutional. It must be admitted that this cannot be said of his attitude towards the question of Lord Milner's policy. He regarded Mr Churchill's qualified approval of the motion of criticism of March 25, 1906, as scandalous and did not fail to express pleasure at the action taken by Lord Halifax in securing a motion of approval from the House of Lords. In this he was moved by the same spirit as had induced him in the ministry of 1880-6 to stand up for Sir Bartle Frere, the desire to support the man on the spot. As, however, the views of his ministry were hostile and must be so, it would have been more tactful to minimise the expression of his feeling and not to mark his disapproval by inviting Lord Milner to Windsor.<sup>1</sup> But it is fair to remember that the fatal ineptitude of Lord Milner's conduct of African affairs was then hardly known outside official circles, nor was it appreciated that he had done more than Kruger to render inevitable Dutch dominion in the Union.

<sup>1</sup> Lee, *Edward VII*, ii. 480, 481.

None the less the king was able to accept the policy of responsible government for the Transvaal, showing just insight into the needs of the position. He asked Mr Churchill only to inform him whether responsible government would favour immigration.<sup>1</sup> It is now indeed plain that the ministry in granting that form of government was less magnanimous than was currently supposed. It had been hoped by the distribution of constituencies to secure a British majority with Sir R. Solomon as first Premier, and the king invited that officer to stay at Sandringham. But the jerrymander failed, as it deserved to do, and General Botha became Prime Minister. The king accepted the position with cordial good taste and, though he refused the grant of a honorary Generalship in the British Army—conceded in 1912—he showed him marked civility and confirmed his loyalty to the Crown. The king also showed, as compared with ministers, the most refreshing good sense when the Cullinan diamond was offered to him by the Transvaal Legislative Assembly. He brushed aside the paltry objections raised, and the Cabinet gradually under his bracing tonic recovered judgment and poise and advised acceptance; it is indeed scarcely credible that anything else could have been contemplated. On the other hand, while he fully approved of the formation of the Union, he cordially applauded the safeguarding of the rights of the Basutos and Bechuanas, and he received in 1909 a deputation of Basuto chiefs, to their deep satisfaction. He exhibited also a keen interest in the personality of the new Governor-General, and it was with some hesitation that he accepted

<sup>1</sup> Mr Churchill absurdly claimed that it would (Lee, ii. 483).

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Mr Herbert Gladstone's nomination for the office, for which he had no special qualifications, though his work in the Union was satisfactorily carried out.

Relations with his ministers were not rendered wholly easy by the ultra-democratic character of Mr Lloyd George. It is easy now to forget what a portent that minister was in his own time, undisciplined, outspoken, ambitious, and resentful of criticism; essentially a reckless spender, he was perforce placed in an office hitherto marked for strict economy. He had decided views, borrowed often from his last journalistic acquaintance, on many subjects of which then he knew little, and one of his pet aversions was the House of Lords, his utterances against which worried by their vehemence the king and evoked his protests. Another cause of offending was his devotion to the cause of women's suffrage, and like his mother and his Prime Minister from 1908 the king was free of any delusions as to the folly of that project, despite the favour it found with Sir E. Grey and Mr Haldane.

It was difficult for the king to obtain any consideration for his feelings on this head, though Mr Asquith had to send a careful explanation of his colleague's unwise action in speaking amid the howls of militant supporters of the movement in favour of it at the Albert Hall on December 5, 1908. But he was more successful in dealing with the rash excursions of both Mr Churchill and Mr Lloyd George into the sphere of foreign politics. Both were then suffering from a profound ignorance of the aims and outlook of Germany and had deluded themselves into becoming warm advocates of an entente with Germany. In any

case they were invading the sphere of Sir E. Grey, and the king finally decided to act through the latter, who had the pleasure by royal command of rebuking the indiscretions of his colleagues and of pointing out to Mr Churchill some of his many errors, as well as the inadvisability of embarking on questions of foreign policy in his tours of the constituencies. Mr Churchill, however, in his attacks on the Lords learned to observe a restraint of language, due perhaps to his noble connections, which distinguished him from Mr Lloyd George, and the king on one occasion expressed, in a manner wholly charming in its paternal kindness, his pleasure "that you are becoming a reliable minister and above all a serious politician, which can only be obtained by putting country before party,"<sup>1</sup> an admonition unhappily not wholly taken to heart by its object.

The attitude of the king to ministers on the great constitutional issue of the House of Lords has been dealt with elsewhere.<sup>2</sup> His earnest desire was always to be helpful within the limits of his powers. Vexed at the failure of the earlier education measure of his government, he favoured the new effort in 1908 to solve the problem, and on October 26 endeavoured through the Archbishop of Canterbury to secure a result which would remove the issue from party politics. The attempt ultimately failed, but both Mr McKenna and Mr Runciman appreciated the value of the royal efforts, and it is plain that the Church Council and the extremists by their resistance to the wise compromise brought forward simply injured the interests of the Church of England in matters educa-

<sup>1</sup> Lee, *Edward VII*, ii. 482.

<sup>2</sup> See chap. viii, § 3.

tional.<sup>1</sup> It is significant of the folly of lost opportunities that even in 1936 a settlement so advantageous to the Church was still to be sought for.

#### 4. *The Consolidation of Constitutional Rule by George V*

In some sense, no doubt, the king was *felix opportunitate mortis* for himself at least. It may be that, if he had lived, Germany might not have rushed to war in 1914; that is a possible belief, for his close contact with international affairs and his seniority gave him advantages which were entirely lacking in the new king in respect of relations with the Kaiser and the Austrian Emperor. But for himself he avoided the growing difficulties of ultra-democracy, and above all the coming into office of a Labour ministry headed by a man who had been hostile to the British war effort, and had been one of those who at the crisis of the country's difficulty had favoured the institution of a parallel to the fatal soldiers' and workers' councils which heralded the ruin of Russian military effort. It can hardly have been possible for the king to make himself really on terms with such a government, and it was well, therefore, that the task fell to his son. George V had, fortunately for his country, been trained for years in the life, hard even for a prince, of the navy; as his accession to the throne had never been anticipated, he had taken his work in a professional spirit and had acquired, with habits of command which were innate, some appreciation of the life of classes far

<sup>1</sup> Lee, *Edward VII*, ii. 658, 659; Spender, *Life of Lord Oxford*, i. 233 ff.; Bell, *Randall Davidson*, i. 510 ff.

removed from court circles. It is impossible to picture Edward VII really enjoying visits to the homes of workers and coming into contact with the lower classes of his people. If George V was less of a democrat by far than his son, he shared an understanding of the people with him, and thus he was enabled to pass with credit through all the changes of ministry of his twenty-five years of office. It would, it may fairly be said, have been difficult for Edward VII to be forced to accept as his Prime Minister Mr Lloyd George, whom he almost disliked ; there was no such personal obstacle in the way of excellent relations with George V, and the king's steady backing for his Prime Minister amid the painful years of war contrasted happily with the precarious position of continental ministers under non-Parliamentary governments. Nothing is more noteworthy than the gesture made by the king in 1917 in laying aside the German titles of his family, and thus identifying himself with the national feeling against that country. It was significant also of his patriotism that he acquiesced in the supersession of Prince Louis of Battenberg from the Admiralty on the outbreak of war, despite the manifest injustice of that course.<sup>1</sup>

The testing time, of course, of his statesmanship came with the ministry of Mr MacDonald, a minority government which might have suffered severely from royal slights. In fact the king soon established with his government the most cordial relations ; he put ministers at ease and soon induced them to realise that the wearing of ceremonial garments was compatible with democracy. He afforded them in their

<sup>1</sup> He was made a Privy Councillor (Fitzroy, *Memoirs*, ii. 576, 577.)

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numerous tribulations ready sympathy, as they justly acknowledged, and the climax of his impartiality was shown in 1924 in his grant without hesitation of a dissolution in circumstances elsewhere described. The essential fact that won the widest approval was that his attitude to the ministry had nothing grudging or condescending. Ministers did not feel that they were objects of contemptuous benevolence, but that he appreciated their position and within the limits of his position was ready to help. In 1929-31 the position was repeated. Ministers once more found themselves working with a sovereign who had backed fairly all the policies of their predecessors, and was now prepared to accord like support to their aims. They knew of course that his support was conditional on their conforming themselves to the restrictions of minority government, and they recognised that that attitude was essentially his duty. The fundamental principle is that the king shall accommodate himself to the views of his ministers so far as these represent the expressed will of the country. A ministry which does not command a majority of its own has, therefore, a restricted mandate, limited to so much of its programme as is acceptable to the members on whose support it relies for its working control of Parliament.

How difficult and delicate is the position of the king when there is a minority government is patent from the state of affairs revealed in 1931, when the influence of the king, as already described, was essential for the solution of the tangle in which rash action had involved the ministry. No responsibility, it was on all hands admitted, attended the king for the debacle. The control of finance by his Chancellor and Prime

Minister was an issue with which he could not interfere, and in fact both these ministers failed signally in their duty towards the country during the period before the debacle. It is easy to find excuses for them, but for the king none are needed, and his actual action in the crisis was unquestionably well devised.

There is perhaps a tendency to regard the position of Edward VII and George V as evidence of the decline of the royal prerogative as compared with its power in the time of Victoria. But this is really misleading and of no greater value than the controversy regarding the fate of the prerogative under that Queen.<sup>1</sup> The Reform Act restored the constitution to effective working by making the House of Commons what it should have always been, the effective source of authority, and definitely limited the exercise of the prerogative by insisting that it should be confined within limits approved by the House, and ultimately by the electorate. A king could exercise as much influence as the Queen ever did ; we must not be misled by the courtier manner of Mr Disraeli,<sup>2</sup> the profound deference of Mr Gladstone, and the politeness of Lord Salisbury into the delusion that the Queen governed the country. Sir S. Lee<sup>3</sup> is indeed of opinion that Edward VII's determination to uphold the royal prerogative was by no means as great or as persistent as that of his ministers, especially his Conservative ministers, to uphold the all-embracing power of Parliament. "During the course of his reign

<sup>1</sup> Hardie, *Queen Victoria*, pp. 237-41.

<sup>2</sup> L. Strachey, *Queen Victoria*, pp. 257-61.

<sup>3</sup> *Edward VII*, ii. 43, 44. But see his own correct account of Queen Victoria in his *Biography*, pp. 543-7.



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most of the great prerogatives were challenged by the then Prime Minister, and in each case the Crown gave way, and in practical effect surrendered the prerogative. By some curious irony it was the Conservative party, the traditional 'Church and King' party, which during King Edward's short reign made the most resounding attacks on what was left of the royal prerogatives. Even the two great prerogatives of the dissolution of Parliament and of the cession of territory were challenged by Mr Balfour in 1904-5."

The indictment, however, will not bear closer investigation. Mr Balfour's view that the House of Commons could insist on a dissolution was simply a statement of obvious truth; the Commons by defeating the government can compel it to appeal to the electorate by a dissolution or to resign, when the new government will dissolve, as happened in 1905. No king could claim to be superior to that power. Mr Balfour also claimed that ministers might be selected or dismissed without reference to the Crown. But that again was not a claim which went beyond the rule virtually admitted by Queen Victoria herself. She secured from her Prime Ministers at times the refusal of office to persons she disliked or their exclusion from certain offices, but she never could dictate any vital point, for the simple reason that the electorate virtually determines the Prime Minister and he controls his Cabinet unless and until he decides or is forced to resign. The Crown cannot insist on a Prime Minister keeping a minister he does not like, unless it is prepared to accept his resignation and find a new government. Nor was there any innovation in

securing the approval of Parliament for the Anglo-French treaty of 1904, which involved a cession of territory. The issue had been decided in 1890 in the case of Heligoland under the late Queen and could not seriously be reopened. Nor had the Queen, as seems to be suggested, effective control over the creation of peerages denied to her son. It is true that under the Queen there was much greater caution in creating peerages in accordance with the general outlook of a society which was still in essence aristocratic, but appointments were made under her on the recommendation of the Prime Minister just as by her son. Despite the king's protests, we are told, Crown appointments became the patronage of the Prime Minister; but this hardly seems to be confirmed by the evidence cited, and as a matter of fact in 1924 George V obtained from his Prime Minister the definition of the political posts in the royal household so as to include only the Vice-Chamberlain, Treasurer and Comptroller of the Household. Thus the control of the Lord Stewardship, which had been asserted by Sir H. Campbell-Bannerman against Edward VII, who wished to appoint Lord Farquhar, his personal friend, while the Prime Minister insisted on Lord Beauchamp, passed definitely to the king.

It is true that Edward VII would not have vetoed a Bill, but neither did Queen Victoria, and, though he never forced a dissolution, his mother equally had never actually done so. On the other hand, George V, though not driven to forcing the dissolution of November 1910, was undoubtedly instrumental in procuring that the people should have to make a final decision on the issue of the powers of the House of

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Lords.<sup>1</sup> His promise if need be to override the peers was given when it was arranged to hold an election, and he thus showed that the prerogative remains effective to the fullest extent in its essential function of protecting the people whose privilege it has become. That he proclaimed peace on ministerial advice was inevitable; no sovereign since William III ever claimed the prerogative to do otherwise, and even Charles II had to accommodate the prerogative to the will of the Commons.<sup>2</sup>

### 5. *The Duties of Ministers to the King*

It is inevitable that, in return for the confidence they can expect from the king, ministers should owe him like treatment, and it may at once be admitted that the issue presents many problems of difficulty even when there is good will on both sides, and, where that is lacking, friction is certain to result. The source of this difficulty lies in the essence of the Cabinet system. That developed under the convention that the king's confidential servants meet for debate among themselves in the absence of the king. They are summoned by the Secretary to the Cabinet at the bidding of the Prime Minister, and not under the auspices of the Lord President of the Council as for a Council meeting where the king will preside. It would be wholly unconstitutional now for the king to preside in Cabinet, and it is never done.

But, if this is the case, then when should the

<sup>1</sup> Spender, *Life of Lord Oxford*, i. 297 ff.

<sup>2</sup> The restoration of the appearance of the king in Parliament and in public was a source of strength to Edward VII, George V and Edward VIII.

confidential discussions of the Cabinet be made known by ministers to the king? Similarly, when should an individual minister notify to the king matters on which he has decided, with or without bringing them formally to the Cabinet for decision? There will always be difficulties on these points, and even without any lack of courtesy or candour mistakes will occur. The one clear rule is that the sovereign is entitled to the fullest information in any sphere in which he has indicated desire to be kept informed, and must be given it on any issue which comes before him. The rule does not help effectively so as to prevent disputes arising as to failure to inform, but it precludes refusal to supply when asked for.

One point, however, remains unsettled. Does the right to receive information extend to knowledge of differences of view in the Cabinet? The issue was raised when George IV, displeased with Canning's recognition of the independence of the Spanish Republics in America, addressed a minute to Lord Liverpool asking individually for the views of members of the Cabinet whether certain principles of policy were or were not to be abandoned. The Cabinet replied generally and collectively, not individually. It was admitted that differences of opinion had existed, but that it was unanimously agreed that the action taken did not depart from the principles in question.<sup>1</sup> It cannot, therefore, seriously be maintained that the Crown has a right to require individual views to be communicated to it. On the other hand, there is no rule whatever to prevent the Prime Minister communicating such views, and nearly every

<sup>1</sup> Stapleton, *George Canning*, pp. 418-20.

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Prime Minister is on record as having freely admitted dissensions in the Cabinet. Naturally the issue was raised by Mr Gladstone<sup>1</sup> at a time when he found the Queen endeavouring to use against him divergent opinions in his Cabinet, and he politely but firmly insisted that the Cabinet was a unity in regard to their sovereign. But the Queen cited the practice of Lord Melbourne, Sir R. Peel, Lord John Russell, and Lord Beaconsfield, though she admitted that the wayward Lord Palmerston had kept her ill-informed or been misleading, which would be quite characteristic. Since then disclosure seems to have been a habit. Certainly it would be rather absurd if the sovereign were to be kept in ignorance of what is normally common talk, for the secrecy of Cabinet differences is a rule honoured mainly or wholly in the breach. But the rule remains that secrecy is in theory binding and that, if a Privy Councillor makes any statement in Parliament respecting Cabinet proceedings, it must be done with the anticipatory sanction of the Crown; it must be explained to the Crown for what purpose the statement is intended, and the permission given serves only for the special purpose and must not be used as a general licence. This doctrine was enunciated by the Queen on the occasion of the resignation of Lord Derby on account of his profound doubts as to the wisdom of the foreign policy of the ministry, and it has been always held to be valid.<sup>2</sup> The issue rose again very expressly on the question of the proceedings in Cabinet relating to the American debt settlement when Mr Lloyd

<sup>1</sup> Guedalla, *The Queen and Mr Gladstone*, ii. 352.

<sup>2</sup> *Letters*, ser. 2, ii. 631-3, 634; cf. ser. 3, i. 104, 105.

George urged publication. It was pointed out on December 15, 1932, by Mr Baldwin that the proper course was to apply to the Crown through the Prime Minister as the custodian of Cabinet records, and that it would fall to the Prime Minister to decide if permission to publish should be accorded or be withheld.

Abundant illustration is possible of the right of the sovereign to demand and receive timely information of measures once they have been resolved on by the ministry. William IV on one occasion was aggrieved by the introduction of a Bill restricting capital punishment without prior notice, but was informed that the Bill was a private measure for which, as was their right, members of the Cabinet had voted. The Queen was insistent on the submission to her of all matters of importance in all spheres of business, but above all in foreign affairs. On this subject her demands of Lord Palmerston are classic ; she insisted that she must be kept informed both of the terms of despatches received and of conversations with ministers, that proposed replies must be submitted in good time for her consideration and approval, and that, when her decisions were wanted, the matter to be settled must be definitely brought forward, and the minister must not go outside the approval accorded.<sup>1</sup> The rule of prior submission of despatches was one to which she clung firmly. She repeated it in 1862 and 1864, and in 1867 declined to be put off by the ingenious excuse that despatches could always be carried or cancelled by telegraph if, having been

<sup>1</sup> *Letters*, ser. 1, ii. 315. The same rule applied to Colonial despatches if important (*Letters*, ser. 2, ii. 387, 412), and to Indian business after 1858 (*Letters*, ser. 1, iii. 380) ; modified in 1898 (ser. 3, iii. 282, 304, 305).

Chapter sent off in anticipation of sanction, the Queen  
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In the same way the Queen expected to be consulted before any important legislation was introduced. In this matter she had on occasion sound cause for disapproval. Lord Westbury in 1863 actually was about to move a Bill on Church Livings when Lord Granville saved him a very bad blunder by pointing out that it was a matter on which the Queen as well as the Cabinet should be formally consulted.<sup>1</sup> The measure actually affected largely Crown patronage and, though the patronage was vested for practical purposes in the Lord Chancellor, his action in ignoring the Queen was decidedly odd. It is, of course, a rule binding on all ministers and Parliament that before any matter affecting the royal prerogative is dealt with the royal approval of discussions must be given.<sup>2</sup> It appears that, strictly speaking, the approval may be given at any stage, but obviously it is convenient to do so before the matter is actually discussed. The rule has recently been specially recognised in regard to discussions as to the reform of the personnel and definition of the powers of the upper chamber. In all these issues it is the practice of the Crown to permit discussion, and a like approval was given in 1935 to the Government of India Bill in its relation to the royal prerogative. Similarly in the same year the king expressed willingness to allow the war prerogative to be discussed in a measure which was intended to limit the power of declaring war, but the

<sup>1</sup> *Letters*, ser. 2, i. 77. So the Irish University Bill (1873) (ii. 240-2; cf. ser. 3, ii. 172 ff.).

<sup>2</sup> Keith, *Letters on Imperial Relations*, 1916-35, p. 257.

Bill did not reach discussion stage. It seems, however, incorrectly to have been suggested that introduction of a Bill required anticipatory sanction, but this is contrary to usage.

A very difficult question is raised by the view of the Queen, approved by Lord Salisbury, that the adoption by a government of a new policy must receive the royal approval before the policy is advocated in the country. It is clear, of course, as was the case in the instance in question, Lord Rosebery's desire to overcome the resistance of the upper chamber to measures passed by the lower house, that no motion on such a topic could with any propriety be brought before Parliament without prior communication to the Crown, for information and criticism.<sup>1</sup> But the error in that case was to suppose that this rule applies to policies raised outside Parliament, and still more to argue that the assent of the Crown to the proposal must be obtained, or the ministry must resign. It is clear that a ministry should as early as possible inform the sovereign of its main lines of policy, and give him the chance of expressing views thereon. But beyond that the royal right cannot go, nor is there other authority for the claim thus made.

Moreover it must be noted that Lord Salisbury himself was far from candid with his mistress in the efforts of 1885 to defeat the Liberals by a bargain for the support of Mr Parnell.<sup>2</sup> Immediately after assuring the Queen of his agreement with her in the

<sup>1</sup> *Letters*, ser. 3, ii. 437 ff.

<sup>2</sup> Gladstone, *After Thirty Years*, pp. 387-423, exposes the grave defects of Mr Buckle as editor of the Queen's *Letters*. Lady G. Cecil's *Life*, iii. 147-64, makes a very bad defence.



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unwisdom of a bargain with the Nationalists, he approved a secret meeting between Lord Carnarvon and Mr Parnell on August 8, and later approved the memorandum then drawn up. He deliberately decided to keep the Cabinet and the Queen in the dark. What is worse is that Lord Salisbury later hid his own part in the business. Writing to the Queen on June 14, 1886, he was adroit to censure the impulsiveness of Lord Carnarvon and his failure to safeguard his colleagues, but he preserved the utmost secrecy regarding the fact that that nobleman had acted with his privity both before and after the incident. The truth, of course, was that Lord Salisbury was under no illusions on the subject of the Queen's strong dislike of any dealings with the subject of Home Rule. He dared not tell her what he had contemplated in 1885, and, as he had dropped the project, he was determined in 1886 to keep himself free from any suspicion in the royal mind of toying with the forbidden subject. It was very human, but very far from conforming to the demands even of the lax standard of political honesty or the candour due to his sovereign, and it is easy to imagine what her wrath would have been had Mr Gladstone been the culprit.

Mr Balfour, when Prime Minister, certainly showed himself far from convinced of the necessity of informing his sovereign in advance of his political plans. Thus on March 4, 1903, he took the occasion of a dinner to Nonconformist Unionists to make a very important declaration of policy. He surveyed the position of the two great parties in the country, and proceeded to attack the project of a middle party which the ingenious Lord Rosebery, who could not tolerate the

forthrightness of Sir Henry Campbell-Bannerman, was endeavouring to institute, and went on to review the situation from the point of view of imperial relations, including the problem of defence. That issue had been raised prominently by Mr Chamberlain at the Colonial Conference of 1902, and naturally was engaging a considerable amount of the attention of ministers, for the proceedings of the Conference had shown that the colonies, with the unimportant exception of New Zealand, were not inclined to listen to the argument that the time had come to relieve the weary Titan of a part of the burden of the too great orb of fate. Naturally enough Edward VII was annoyed that his Prime Minister should not have imparted his views on such issues to him and should have left him to gather his knowledge of the attitude of his own ministry to such vital problems from the newspapers, and there is force in his rebuke: "The king takes such a deep interest in the welfare of his country and especially in all matters connected with its defence that he was naturally much surprised, and he might even say pained, to have received no information on the subject."<sup>1</sup> Mr Balfour's reply is not recorded, but no one can doubt that that most ingenious metaphysician had no trouble in persuading himself, if not the king, that his action was exactly proper.

The king was insistent on full reports of Cabinet proceedings,<sup>2</sup> asking for four quarto pages, but he

<sup>1</sup> Lee, *Edward VII*, ii. 50.

<sup>2</sup> *Ibid.*, ii. 467. The king was insistent on agreement on the terms of his speeches, which were not rarely altered; e.g. February 19, 1910, Fitzroy, *Memoirs*, i. 396, 397; cf. December 16, 1902, i. 115.

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allowed the Prime Minister to depute to the Home Secretary the report of Parliamentary business, and George V excused the practice as unnecessary in view of press reports. The innovation of a Cabinet Secretariat from 1916 permits the supply to the king of a definitely authentic summary of decisions, leaving further elucidation to the Prime Minister's own hand.

Difficulties regarding supply in good time of information were not lacking under Edward VII. As usual the defect was due in many cases to lack of experience. Mr Lyttelton was more than once the object of severe reproof for his oversights, as when on March 11, 1904, he telegraphed the king's approval of the Chinese Labour Ordinance without obtaining in advance the royal assent, and issued a misleading press communique. He also offered a military funeral for the remains of the late President of the South African Republic without the king's sanction, and the king wrote quite fairly: "As minister he has acted quite out of order and not according to long established precedent. Queen Victoria would have strongly, and very strongly, resented such a proceeding."<sup>1</sup> There can be no doubt of that. Lord Elgin also failed to submit his despatch regarding the termination of Chinese immigration into the Transvaal, and was duly rebuked,<sup>2</sup> with the result that he never offended again. A much more grave oversight was the failure to inform the king before the Garter was promised to the Shah of Persia, and, though the king honoured the promise, it was only after the Shah had

<sup>1</sup> Lee, *Edward VII*, ii. 180.

<sup>2</sup> *Ibid.*, ii. 479. See also Fitzroy, *Memoirs*, i. 297, 298.

gone home in a sulk, and on most earnest ministerial pressure.<sup>1</sup> By a curious oversight the creation of a Scottish naval base was not notified by Lord Selborne.

His first Prime Minister seemed to the king insufficiently communicative, though similarity of tastes in the matter of European travel brought them together and personally they became good friends. Mr Asquith seemed to him far too reserved, and reluctant to let him know fully the position and plans of the ministry. It must, however, be realised that Mr Asquith for most of the time was struggling with the resistance of the House of Lords, and that, since he would be bound sooner or later to ask the king to exercise decisively his prerogative, it was a matter of great delicacy to reveal to him all the currents of difficulty which appeared in the Cabinet. Mr Asquith was perhaps not very tactful in suggesting that the king was not informed as he did not want him to be troubled with difficult matters; after all, the king felt himself fit for any decision. The naval estimates<sup>2</sup> in 1909 evoked an enquiry as to whether he was being kept in the dark, rumours having been current that discussions had been proceeding in Cabinet, but these the Prime Minister dispelled. But the king seems to have had a real grievance both against his favourite naval expert, Sir John Fisher, and Lord Tweedmouth for failing to keep him informed of the unexpected increase in the German naval programmes;

<sup>1</sup> Lee, *Edward VII*, ii. 156, 157. For carelessness in 1914, Fitzroy, ii. 540.

<sup>2</sup> *Ibid.*, ii. 597 ff. Cf. also *Journals and Letters of Viscount Esher*, ii. 160, 265 ff.

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patently information on that head was essential if the king on his Berlin visits was not to be made to appear slightly foolish. There seems little doubt that Sir John Fisher was at fault as often.

Even more justified was the king's annoyance in 1908 at the amazing silence of the Home Secretary during the crisis caused by the proposed procession of the Holy Sacrament on the occasion of the Eucharistic Conference on September 13.<sup>1</sup> The king had to take up the matter with the Prime Minister and to secure a satisfactory arrangement; strenuous negotiations were necessary, and only after the king had actually been much perplexed was information forthcoming from Mr Gladstone. It is not, therefore, surprising that he was far from enthusiastic at his selection for the Governor-Generalship of the Union of South Africa.

The king himself on one occasion gave Mr Lyttelton the opportunity for revenging himself for the snubs administered. It arose from misunderstanding of his powers. In 1905 he was asked to fill the vacant office of Grand Master of the Order of St Michael and St George, and appointed the Prince of Wales to that office. Consulted by the Prince as to the Chancellorship he suggested the Duke of Argyll, who was then informed by the Prince of his selection. But Mr Lyttelton pointed out that the right to appoint was placed in his hands by the statutes revised in 1877. The king felt that the appointment could not be undone, and the Secretary of State finally acquiesced, but not until the king must have felt bitterly that he had made a very bad blunder in seeking to exercise

<sup>1</sup> Lee, *Edward VII*, ii. 659-63.

a power which did not belong to him.<sup>1</sup> It is not surprising, therefore, if his activity in regard to colonial issues was restricted; he realised the limitations of his knowledge and authority in that sphere. But he was roused to activity by anything seeming to suggest withdrawal of British influence, and in March 1909 he asked Lord Crewe to provide explanations not afforded by Mr Asquith in announcing the decision of the reason for abandoning part of Somaliland. Lord Crewe explained that the cost of conquering Somaliland was prohibitive, that the natives were not civilisable, and that it was a worthless possession. Later the king was assured that arrangements had been made with the Mullah for the proper treatment of the friendly natives who were being left unprotected, and the king had reluctantly to acquiesce. Needless to say, the withdrawal was not final and indeed was stupid. Later the use of aircraft enabled the policy to be reversed, and the country fell again under effective British control. The king had seen with perfect clarity the unwisdom and injustice of leaving natives to the tender mercies of so hostile a leader as the Mullah. It was, however, unfortunate that the new method of warfare should have proved so useful as to induce the British government during the disarmament discussions of 1933<sup>2</sup> onwards to raise objections to the abolition of the right of bombing which afforded Italy an excuse for her use of that instrument of war in her disgraceful breach of

<sup>1</sup> Lee, *Edward VII*, ii. 523. Another example of a *faux pas* was in his appointing the Czar an Admiral of the Fleet at Reval, 1908, but Knollys fairly pointed out that a minister should have been there (*Journals and Letters of Viscount Esher*, ii. 322).

<sup>2</sup> King-Hall, *Our Own Times*, ii. 287.

Chapter IX international obligation in the Ethiopian campaign of 1935-6. It must, however, be noted that no use of poison gas was made by Britain at any time, so that no conceivable precedent existed for the full measure of Italian disgrace in 1936.

It must be added that even under George V instances are recorded of carelessness in informing the king of matters which had been carried to the point where Orders in Council were prepared. Thus he was justly annoyed to find that the Admiralty had decided on creating the rank of Lieutenant-Commander without first taking his pleasure, and only acquiesced with hesitation, while calling attention in very clear terms to the neglect both of the First Lord of the Admiralty and Prince Louis of Battenberg, the First Sea Lord.<sup>1</sup>

Much more serious, of course, was the amazing blunder by which the king was left to learn from the Press of the incident of March 20, 1914, at the Curragh, when officers resigned rather than face the possibility of having to deal in force with unrest in Ulster. The matter deeply touched the position of the king, and his indignation at the oversight was fully justified. Assurances of due information were readily accorded for the future.<sup>2</sup>

<sup>1</sup> Fitzroy, *Memoirs*, ii. 540 (March 9, 1914). For the use of the presence of a minister at council to explain Orders to the king, e.g. Air Order, 1923, see ii. 803.

<sup>2</sup> Spender and Asquith, *Life of Lord Oxford and Asquith*, ii. 45.

## CHAPTER X

### THE KING'S INFLUENCE IN FOREIGN AFFAIRS

#### 1. *Queen Victoria and Foreign Affairs*

FROM the Prince Consort the Queen acquired a wide knowledge of the essentials of foreign policy. King Leopold in 1839 had already urged her to have weight and influence and her extensive family connections abroad encouraged her interest in this field. The fact that foreign policy outside the kingdom was normally in the hands of sovereigns had a very definite effect on the outlook of the Queen and her husband, and aided them in asserting the interest and authority of the Crown in these matters.

It was admitted at once that ministers must be cognisant of correspondence, and letters to and from royalties were shown to the Prime Minister or Foreign Secretary, the two ministers who under the British constitution control foreign policy in co-operation, subject to the final authority of the Cabinet.<sup>1</sup> The Queen could not write to Louis Philippe to condole with him on his sister's death without Lord John Russell's knowledge,<sup>2</sup> nor receive him in exile without Lord Palmerston's assent. But her right to advise, to be consulted in full, and to have nothing done without her sanction, was insisted on absolutely.

<sup>1</sup> Martin, *Prince Consort*, iv. 329.

<sup>2</sup> *Letters*, ser. 1, ii. 168, 169.



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Moreover her personal relations were of great value. It is idle to forget that many of her correspondents in monarchical countries were able to direct or influence foreign policy, and thus her letters and conversations could be used, as they were used, to supplement and strengthen the formal communications of her ministers. It would have been folly not to employ the means of pressing British interests which thus existed, and in addition the Queen collected a store of interesting and important information throwing strong light on the complex characters and motives of foreign sovereigns. When these were the people who governed events, it was of vital importance to understand them.

To France the Queen's attitude was naturally reserved. British opinion was still sullen, and it is to the Queen's credit that she used all her influence with her uncle in 1840 to induce the French king to acquiesce in British action towards Mehemet Ali,<sup>1</sup> and in 1844 she was impartial and level-headed in the storm raised by the episode of Tahiti and the wrongs of Mr Pritchard. Even with Napoleon III she could find points of contact over the grave of Napoleon I. But her interest was naturally in German progress, and the union of her daughter to the Prince of Prussia in 1858 gave her a permanent concern for Prussian welfare. Her husband shared her feeling, and repeatedly she gave expression to her desire to aid a German union under Prussian influence as against Austria. In the pursuit of this object she did useful work in many ways ; in 1863 she urged Napoleon III not to seize the east bank of the Rhine, in 1867 she

<sup>1</sup> *Letters*, ser. 1, i. 306 ff.

was instrumental in procuring the Conference which settled the issue of Luxemburg. In 1864 and in 1866 she urged peace on the combatants, though in vain, and, unable to prevent the Franco-German war of 1870, she tried to induce the king of Prussia to concede more generous terms, and in 1873 and 1875 she urged the German Emperor to lay aside the design of attack on France. Her natural instinct was for peace, and it was mainly under Mr Disraeli's influence that she developed a rather excessive hostility to Russia which he had to evade.

But interest in foreign affairs necessarily meant friction with a minister of the experience of Lord Palmerston, and from 1846 on the fray was joined. The Queen could not bring herself to like Lord Palmerston's sympathy with the rebels in Italy, and naturally disapproved his advice to Spain to adopt a constitution which led to the dismissal of Sir H. Bulwer and the withdrawal of diplomatic relations.<sup>1</sup> She resented the fact that his hostility to Austria led to the failure of the new Emperor to send a mission to announce his accession, and only the readiness in 1849 of Lord Palmerston to apologise to the worthless Neapolitan government for allowing guns to be supplied to the insurgents in Sicily prevented a breach.<sup>2</sup> Lord Palmerston eased the situation a little by consenting to let the Prime Minister<sup>3</sup> see his despatches and deal with the Queen regarding them, a quite unconstitutional abdication of his right to direct intercourse, but the Queen and Prince and he

<sup>1</sup> Greville, *Memoirs*, vi. 173, 187.

<sup>2</sup> *Letters*, ser. 1, ii. 251.

<sup>3</sup> *Ibid.*, ii. 262, 263; for Gladstone's disapproval, see *Gleanings of Past Years*, i. 86, 87.

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were not on speaking terms. The affair of Don Pacifico was worst of all, for Lord Palmerston's failure to notify the British Minister at Athens of the settlement effected with the French Ambassador led to the renewal of reprisals and Greek submission, so that the French government recalled their ambassador, and the House of Lords censured the minister, but the Commons triumphantly upheld the doctrine of the inviolability of a British citizen. On August 12 the Queen delivered her ultimatum demanding due information before action was taken and timely submission of drafts, and the minister submitted. But in substance his policy was that of the government and all the efforts of the Crown to alter it were foiled by this fact.

The dismissal came later. The Cabinet by its authority induced Lord Palmerston not to receive Kossuth on his visit to England, but that did not prevent his receiving an address in which the Emperors of Austria and Russia were reasonably enough styled "odious and detestable assassins." But the break was when Lord Palmerston told the French Ambassador that he approved the coup of Napoleon, though Lord Normanby had been ordered to express at Paris complete neutrality. Luckily the Queen did not dismiss but waited Lord John Russell's advice, which was duly in favour of the removal of the minister. She then insisted on her right to determine the holder of the Foreign Office and disputed the right of the Cabinet to advise on that head. In fact, however, she accepted Lord Clarendon, but he refused, and Lord Granville took his place.<sup>1</sup>

<sup>1</sup> *Letters*, ser. 1, ii. 412 ff.

Lord Palmerston's defence in the Commons on February 3 was ineffective, but on February 20 he avenged himself by defeating the ministry. He had unquestionably acted unconstitutionally, but it is equally clear that his foreign policy was far more British than the tendency of the Queen to support autocracy.

The Queen was genuinely opposed to war, and her implication in the Crimean war was in her opinion due to the failure of Austria and Prussia to make clear their position of opposition to Russia. At any rate she did not fail to seek to bring both into the struggle. The many evils of the war included her having to take Lord Palmerston as Prime Minister, only to find him engaged in direct correspondence with Napoleon III, a novel and unconstitutional practice. The Queen and her husband once in the war were painfully bellicose, like their ministers, except Lord Aberdeen, who had to apologise for a defence of Russia against a false accusation of aggression.<sup>1</sup> The Queen was indeed reluctant to see the war ended without a glorious victory to repair the failure at the Redan,<sup>2</sup> but realised with her saving gift of common sense that the French attitude rendered further hostilities out of the count. But once convinced of the need of peace she played her part well in inducing the public to abate its war fever.

The Italian war in 1859 raised difficulties for the Queen. She was at heart pro-Austrian, though she deterred Prussia from attacking France, and with Lord Derby she wrangled acrimoniously over the form of declaration of neutrality in the speech from the

<sup>1</sup> *Letters*, ser. 1, iii. 44.

<sup>2</sup> *Ibid.*, iii. 207, 217.

throne. With the government of Lord Palmerston,<sup>1</sup> Lord John Russell now being Foreign Secretary, she was at variance in sympathy, and the moral approval of Britain which led Austria to conclude the treaty of Villa Franca would not have been accorded willingly by her. In August her differences with Lord J. Russell over drafts of instructions came to a head; she used Lord Granville to influence the Cabinet to overrule the Prime Minister and Foreign Secretary,<sup>2</sup> and the Cabinet in January 1860 also restrained the pair from undue eagerness to aid France by a formal alliance. On February 9, 1860, there was nearly an open rupture, for Lord J. Russell definitely asserted that he did not share the Queen's views on Italy and that he regarded the liberation of Italy from a foreign yoke as an increase of freedom and happiness for mankind. The Queen was very indignant, and insisted that she was entitled to receive grounds for policies advised so as to enable her to decide whether to approve. This was incontestable and Lord J. Russell apologised, but the issue remained. The seizure of Savoy and Nice by France helped matters by changing the pro-French policy of the ministry to some degree, while the Queen acquiesced in her inability to answer favourably the urgent appeal she received from the king of the Two Sicilies, whose liberation from tyranny reminded Lord J. Russell of the principles of the revolution of 1688 and was therefore sacrosanct. The Queen's use of Lord Granville to stir up the Cabinet against their leader was unconstitutional, but the blame of obedience rests on Granville.

<sup>1</sup> *Letters*, ser. 1, iii. 450 ff.<sup>2</sup> Fitzmaurice, *Granville*, i. 354 ff.

Lord Granville was to be employed again to even more purpose in the struggle waged by the Queen to prevent Britain taking sides in the struggle of Denmark against the rapacity of Austria and Prussia regarding the Duchies of Schleswig and Holstein. She had already prejudiced the chance of Denmark finding French aid by her refusal to combine to aid the Poles in 1863, since Prussia had intervened to prevent succour reaching the rebels and Napoleon III in consequence would not aid Britain. But Lord Palmerston, Lord Russell, Lord Westbury, and Lord Stanley of Alderley in the Cabinet were eager to lend aid, at least if some help could be found, and Austria was peremptorily<sup>1</sup> warned by Palmerston not to send her fleet past the British coast. Lord Granville's services were successfully employed to secure the overruling by the Cabinet of its head and Foreign Secretary.<sup>2</sup> It must, of course, remain dubious how much is to be ascribed to the Queen, for, though she seems to have contemplated even forcing a dissolution on the issue, the Cabinet was in a majority for peace, and the opposition was bellicose. She incurred severe suspicion of being pro-German in views, and, though Lord Russell defended her in the Lords, he did so apparently rather from duty than conviction, and Lord Palmerston delivered his famous rebuke regarding the use of language by her entourage giving rise to misunderstandings. No wonder the Queen, despite her triumph, felt distressed. It is interesting to note that the Queen on this as on other occasions used her influence with the leader of the opposition in order

<sup>1</sup> Ashley, *Palmerston*, ii. 249-52.

<sup>2</sup> Fitzmaurice, *Granville*, i. 465 ff. ; Lee, *Queen Victoria*, pp. 350, 351.

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to secure as little hostile criticism as possible, and much resented the fact that he allowed Lord Ellenborough to attack her in the Lords without intervening to defend her.

After 1864 the Queen seems to have wavered a little in consequence of realisation of the gravely unsatisfactory character of Prussian policy. She may have been affected by her son's disgust at the treatment of his wife's country ; the Queen had absolutely declined to allow this connection to affect her attitude, but we find her before Sadowa talking of an arrangement with France to check Prussia.<sup>1</sup> Once Sadowa was won, she turned to a plan of an alliance with Germany to preserve peace, but in this she found no support, and she equally could not prevail against the refusal of Lord Clarendon in 1869 to recommend a guarantee to Portugal against a Spanish attack. It is curious that Mr Disraeli seems to have been already at this time inclined to share her views on a German alliance, but the limits of royal power appear clearly from the fact that the ministry remained impervious to her suggestions.

It is amazing to find, however, that detachment was carried by Lord Clarendon to the point of dissuading the Queen<sup>2</sup> from opposing the fatal candidature of Leopold of Hohenzollern for the Spanish throne ; Lord Granville and the king of the Belgians induced her to act with success in June, but Bismarck was intent on war and so manœuvred as to force it on France, as Sir Robert Morier was the first to explain to the government. The Queen's appeal to the king of Prussia for lenient terms was thwarted by

<sup>1</sup> *Letters*, ser. 2, i. 314.

<sup>2</sup> *Ibid.*, ii. 11.

Bismarck, while Germany resented the failure of Britain to intervene in time to warn France not to fight.

In the Russo-Turkish struggle of 1876-8 the Queen undoubtedly appears at her worst.<sup>1</sup> She had come to believe that Russia was the complete villain of the piece and had instigated the Bulgarian massacres in order to have an excuse for seizing Constantinople, and she felt assured that the true policy was to persist in the policy of war with Russia. It is certainly fortunate that Lord Beaconsfield was determined to avoid hostilities; the alternative seemed to be to let her have war or abdicate. It is significant of the curious episode that the Prime Minister and the Queen went behind the back of the Foreign Secretary in many matters, and despatched Colonel Wellesley to Russia on a secret mission to the Czar to warn him that a second Russian campaign against Turkey might bring Britain into the field against him.<sup>2</sup> The amazing situation thus created will further be discussed below.

Lord Salisbury was also to have an anxious time over her attitude to Russia. The crisis arose out of the unwise action of Prince Alexander of Battenberg, the first ruler of Bulgaria under the regime established by the treaty of Berlin in accepting in 1885 the union with Bulgaria of Eastern Roumelia, where a rising expelled the Turkish Governor-General. Russia, which had urged the union of the provinces in 1878,

<sup>1</sup> R. W. Seton-Watson, *Disraeli, Gladstone and the Eastern Question*, pp. 233 ff.

<sup>2</sup> Seton-Watson, *Disraeli, Gladstone and the Eastern Question*, pp. 227, 228.



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now took a hostile attitude. Serbia attacked Bulgaria, only to be definitely defeated in November 1885, and Greece demanded compensation for the change at the expense of Turkey, while Crete sought union with Greece. The Queen was much attached to Prince Alexander, and Lord Salisbury, and later Lord Rosebery, worked hard to secure his position, which ultimately led to his being appointed Governor-General of Eastern Roumelia for five years by the Porte. But the Czar remained implacable, and stirred up revolt in the army and, though after forced abdication on August 21 the Prince was restored, he soon announced his retirement, as three-fourths of the officers were disloyal, the opposition hostile, the ministry untrustworthy, the clergy divided, and only the army and the people loyal.<sup>1</sup>

The Queen was most eager to secure the Prince's position and constantly urged action in his favour of Lord Salisbury, who had to excuse himself for apparent failure to deal with some of her representations. He pleaded<sup>2</sup> in defence of the comparative weakness of British diplomacy, as opposed to that of Russia, that only £15,000 was available for secret service money, and that no House of Commons would grant more; that the poor pay of the diplomatic service resulted in the inferior quality of its members, and that promotion by seniority was so much of a rule that any deviation brought down on its author, as he had found in 1878, the wrath of the Commons; the absence of any serious army to compare with the

<sup>1</sup> *Letters*, ser. 3, i. 198 ff.

<sup>2</sup> *Ibid.*, i. 193-5. Bismarck vetoed his marriage to Princess Victoria, the Queen's granddaughter (i. 397, 429).

forces of the continental powers ; the changes of ministry and of policy due to the democratic system ; and the difficulty even in the Cabinet of explaining policy to from fourteen to sixteen members unfamiliar with the issues. Moreover he countered the Queen's insistence on action by pointing out the limits on British effective intervention. Such intervention could succeed only where there was unity in the country concerned, as there had at first been in Bulgaria ; where there was strong British feeling and unanimity of opinion, which had ceased to be the case ; and where allies could be found, while at the present juncture Germany had most positively declined to assist in any way, being satisfied that the Czar was implacable in his resentment and would not consent to allow the Prince to remain. The issue was decided in effect by " Sandro " himself, as he declined to attempt to remain on a throne so utterly insecure. Finally Prince Ferdinand of Saxe-Coburg and Gotha was elected by the Grand Sobranye in July 1887.

It was of the Queen's attitude during this affair that Lord R. Churchill alleged that he had resigned because of his opposition to the policy of Lord Salisbury and the Queen over Russia, and that she wanted to go to war with Russia in order to secure the restoration of the Prince to his throne. The Queen indignantly repudiated the charge of personal interest as her motive. " What the Queen would be ready to fight for is to prevent Russia being all powerful in the East or in the Black Sea, and to prevent our honour and position being lost as they would be if we remained passive spectators of what Russia is doing. Bulgaria and the Balkans are the stepping-stones to Constanti-

nople.”<sup>1</sup> In fact, however, the game was hopeless in view of the certainty that there was too much intrigue in Bulgaria to afford any basis for the Prince’s retention of the throne.

The Queen’s interest in Bulgaria did not die out, and in 1893 Lord Rosebery feared she found him too remiss in pressing forward to aid Prince Ferdinand against Russia and Turkey, but she assured him that he had misunderstood her.<sup>2</sup> She recognised more and more the hostility of Turkey and was anxious to induce the Sultan to cease the massacres of Armenians in 1895, but nothing came of her benevolent intentions, unsupported by power to act.<sup>3</sup>

Russia was again to trouble deeply the Queen in another connection and to make her specially indignant with her ministers. The affairs of Egypt had inevitably been a source of great anxiety to the ministry of Mr Gladstone and had involved strained relations with France. Germany saw the advantages which might be gained from this quarrel and intervened to secure British acquiescence in obtaining colonial territory. The *modus operandi* was far from candid, and both the Australian colonies and the Cape of Good Hope had grievances, largely due to their own failure to face in proper time the obligation of being willing to provide the cost of the administration of new territories if added to the Empire. But the serious issue which excited in 1885 the wrath of the Queen was the question of the Sudan. The matter was badly handled by everyone.<sup>4</sup> General Gordon was most unwisely chosen to carry out a policy of

<sup>1</sup> *Letters*, ser. 3, i. 259, 260.

<sup>2</sup> *Ibid.*, ii. 260.

<sup>3</sup> *Ibid.*, ii. 583 ff.

<sup>4</sup> Gladstone, *After Thirty Years*, pp. 243–62.

withdrawal of the Egyptian garrisons from the Sudan which was in itself very difficult and quite repugnant to his feelings. The relief expedition to extricate him from Khartum was by mismanagement and mischance two days too late (January 28), and the Queen's fury knew naturally enough no bounds, and her imprudence in the expression of her views almost cost her the resignation of her ministry. Naturally the indignation excited by the death of General Gordon nearly brought down the ministry, for it was sustained only by 302 to 288 votes on a motion of censure. But there was for the moment agreement that the power of the Mahdi must be crushed, and a force was sent to Suakin to open up the road to Berber, while Lord Wolseley strengthened his position on the Nile.

At this juncture, however, difficulties with Russia supervened. That power, seeing British embarrassments in Egypt and the Sudan, suddenly proved intransigent on the issue of the Afghan boundary, and on March 24 it was found necessary to prepare to call out the reserves, a step justified by the action of the Russians on March 30 in expelling the Afghans by force from Penjdeh, in circumstances dishonouring to Britain. A vote for £11,000,000 on account was readily granted on April 27. In the meantime, however, the Queen had been full of bitterness because it turned out that the government had to decide in the middle of April to abandon the plans which had been agreed upon for the expedition to Berber and Khartum.<sup>1</sup> She was in secret and most improper correspondence with Lord Wolseley,<sup>2</sup> having to ask him to destroy her letter as it was so contrary to

<sup>1</sup> *Letters*, ser. 2, iii. 634 ff.

<sup>2</sup> *Ibid.*, iii. 633.

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official duty, and her correspondent duly obeyed her instructions. With him to support her she was urgent for the carrying out of the expedition to Khartum, though he had the good sense to warn her that so hated were the British and the Egyptians that if Khartum were retaken, it would be necessary to entrust it entirely to a native government which must not rely on British or Egyptian forces. Moreover, it is fair to add that he was anxious regarding the danger of locking up in the Sudan any substantial number of the small British army.

Yet the Queen had to yield to the firm advice of the Cabinet which justified the change of policy since February by the fact that circumstances had vitally changed. The failure to capture Berber was a serious obstacle to success; Lord Wolseley had had to increase largely his demands for men; the motive for an advance had been largely removed by the failure of the Mahdi on his part to attack; the situation in India had altered, and the country would no longer support a forward policy. The Queen was specially irritated by the deference paid to every fleeting breath of popular opinion, and suggested that, if the war with Russia were to be conducted on that basis, it would be better not to go to war. But the case for the government as explained by Lord Rosebery<sup>1</sup> was overwhelming. To face a war with Russia with the choicest army locked up in the Sudan was impossible. France had already taken advantage of British difficulties to use, in the matter of the action taken against a seditious French newspaper, the *Bosphore Egyptien*, language such as Bismarck might

<sup>1</sup> *Letters*, ser. 2, iii. 640-2.

address to France. Germany could have done what she chose with the colonies, and every other power would have been free to ignore British rights. To seek the Mahdi, who had gone south of Khartum, would be madness. Only *force majeure* justified the policy, but it was present; bad as withdrawal was, the other course opened an abyss. Humiliating the decision was, but there was no party to support a forward policy and form a government. The country and the army alike demanded withdrawal; not Mr Gladstone himself could have persisted in reaching Khartum. These were facts which the Queen failed to realise, but luckily the ministry saw more clearly, and with hands free Britain could secure a satisfactory enough settlement with Russia.

The later years of her life brought the difficulties due to the hostility of William II to his uncle and to his mother, and the Queen, though she liked her grandson, was perfectly prepared to administer rebukes to him, as on the occasion of his telegram to President Kruger on the occasion of the criminal folly of Dr Jameson's incursion into the Transvaal, which was the ultimate cause of the South African war.<sup>1</sup> That war afforded occasion for a singularly effective exhibition of her forceful diction, when in March 1900 the Transvaal government asked for the Emperor's friendly intervention to end the war. The official reply was sent by her government, but she added a message through Sir F. Lascelles: "Please convey to the Emperor that my whole nation is with me in a fixed determination to see this war through without intervention. The time for, and the terms

<sup>1</sup> *Letters*, ser. 3, iii. 8, 9.

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of, peace must be left to our decision, and my country, which is suffering from so heavy a sacrifice of precious lives, will resist all interference." No wonder Lord Salisbury was pleased, since "it would not have been convenient for me to use such strong language," and Sir F. Knollys hailed it as worthy of Queen Elizabeth. The same note was struck by Lord Rosebery, who wrote on March 15 of her announcement of her impending visit to Ireland, her extraordinarily dexterous and sympathetic order about the shamrock, and the visit to London: "Your Majesty does not much admire Queen Elizabeth, but the visit to London was in the Elizabethan spirit. There was, however, this difference that with the pride that England felt in Elizabeth there was but little love. Now the nation glows with both."<sup>1</sup>

Perhaps it was an uneasy consciousness of the danger from William II that in her later years induced her to consider Russia with less hostile eyes,<sup>2</sup> and which induced her to urge that France should be permitted an honourable means of exit from the difficulty in which she had involved herself by the Marchand mission and its arrival at Fashoda.<sup>3</sup> The episode was critical, for lack of tact would have rendered impossible the ultimate accord of 1904.

With the United States the Queen was never closely concerned. But as we have already seen, the Prince Consort<sup>4</sup> marked the close of his life by the wisdom which dictated such alterations in the terms of the note to be addressed by Lord John Russell to Lord Lyons regarding the removal of the Confederate

<sup>1</sup> *Letters*, ser. 3, iii. 509, 513.<sup>2</sup> *Ibid.*, ii. 418.<sup>3</sup> *Ibid.*, iii. 305, 309.<sup>4</sup> *Ibid.*, ser. 1, iii. 597, 598.

envoys from the *Trent* as would ensure that the United States could surrender the envoys without discredit, the alternative being doubtless rupture of relations and possible war. Less known but of high importance is the fact that the Queen used her influence in the matter of the recognition of the Confederate States as independent.<sup>1</sup> She insisted on the maintenance of strict neutrality against the views of Lord Palmerston, Lord John Russell, and on this occasion Mr Gladstone also. The latter, it will be remembered, in this matter committed himself to the rash prophecy of the ultimate separation of the States.<sup>2</sup> In this matter she seems to have been successful, as in the case of Austria and of Denmark in 1859 and in 1864, in securing the backing of the Cabinet majority. The Queen also readily acted on the advice to send to Mrs Lincoln a letter of regret on the murder of her heroic husband, and this did a little to mitigate the growth of American feeling against Britain, though, fostered by the Fenian movement and supported by the desire to obtain possession of Canada, the agitation in the United States reached dangerous heights. Hence the Queen was prepared to accept the great sacrifice of British interests in the wording of the provisions of the treaty of Washington regarding the obligations of neutrals, which resulted in the rather discreditable *Alabama* award. But as the ministry recognised, and no doubt persuaded the Queen, it was worth paying the amount to improve relations with the United States.<sup>3</sup>

<sup>1</sup> Gardiner, *Life of Harcourt*, ii. 611.

<sup>2</sup> Morley, *Life of Gladstone*, ii. 75-86.

<sup>3</sup> *Letters*, ser. 2, ii. 99, 120, 123, 187, 205, 209, 228; Morley, ii. 394 ff.



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The Queen naturally sympathised, as did Lord Salisbury, with the Queen of Spain in the encouragement given by the United States to the Cuban rebels, which led to war, but no aid could be accorded by the United Kingdom,<sup>1</sup> which itself was annoyed by the raising of the issue of the boundary between Venezuela and British Guiana, on which the President forced arbitration by an ultimatum. Although the Queen learned with pleasure of the change of feeling towards her in the United States, especially at and after the jubilee of 1897,<sup>2</sup> her view of the President's action in the matter of the intervention in the boundary issue doubtless accorded with the general belief that the American case was bad.<sup>3</sup>

One curious aspect of her domestic relations is worthy of note, for it belongs to an epoch which is passing away. In 1864 the Crown Princess of Germany suggested that Sir A. Buchanan, the British Minister at Berlin, should be superseded, and this request was shortly afterwards duly given effect.<sup>4</sup> The Crown Princess repeated the suggestion in 1870 in regard to Lord A. Loftus, and again the request was granted.<sup>5</sup> In both cases there seems to have been just cause for the action taken, but it is significant of the value placed both by the sovereign and her ministers on the impartial advice of the Crown Princess, who seems throughout her troubled life to have been genuinely attached to her mother country, and to have worked consistently for better relations

<sup>1</sup> *Letters*, ser. 3, iii. 4, 44, 114, 221.<sup>2</sup> *Ibid.*, iii. 305.<sup>3</sup> *Ibid.*, iii. 236, 240, 244.<sup>4</sup> *Ibid.*, ser. 2, i. 204, 206, 243.<sup>5</sup> *Ibid.*, ii. 80, 85.

against the persistent hostility of Bismarck, who unfortunately came to dominate more and more completely the aged king.

In matters of ambassadorial appointments the Queen was naturally interested. In 1880 she deprecated the removal of Sir H. Layard from Constantinople as suggesting a change of policy and undesirable. In reply it was explained that removal on change of government was not unprecedented, especially at Paris, and that Sir H. Layard did not enjoy for various reasons the necessary confidence of the government. But the matter was adjusted to spare his feelings by arranging for Mr Goschen to go on a special mission.<sup>1</sup> She was fair-minded in regard to Sir Robert Morier, pointing out that some of his unpopularity was due to his friendly relations with her daughter, which ensured Prince Bismarck's hatred.<sup>2</sup>

It was characteristic that she disliked the conversion of legations into embassies because of the high claims of ambassadors to ceremonial honours and the right of audience with the sovereign. But in 1876 she had to yield to the pressure of Italy, and to appoint her minister ambassador.<sup>3</sup> The increase in the number of ambassadors, however, remained slow, though it was accelerated through war consideration under George V when the Argentine Republic and Brazil were given that distinction.

<sup>1</sup> *Letters*, ser. 2, iii. 92-4.

<sup>2</sup> *Ibid.*, ser. 3, i. 457, 458. Cf. ser. 2, i. 461-6.

<sup>3</sup> *Ibid.*, ser. 2, ii. 447, 448. In 1893 Lord Rosebery tactfully persuaded her to invite an Ambassador from the United States (ser. 3, ii. 239, 240).

## 2. *Edward VII and the Peace of Europe*

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Unquestionably the chief interest of the king lay in foreign affairs. Like his mother he was closely allied with the more important and some of the minor royal houses in Europe. He was fond of life on the continent, and nothing suited him better than seeking to further British policy by personal intercourse. But his action was essentially that desired by ministers. He had no ambition to have a policy of his own nor to act independently of his advisers, and the result was that they could trust him to keep them fully informed of the result of his interviews with crowned heads or ministers or ambassadors, without insisting on the constant presence of a minister at his side. Even when the three Rothschilds united on June 3, 1908, in a letter urging him while at Reval to speak to the Emperor as to the recrudescence of attacks on Jews in Russia, he declined to act without the advice of Sir Charles Hardinge and Sir A. Nicolson, who were in attendance. When they concurred he mentioned the matter to the Prime Minister and secured some promise of amelioration. It was on the same visit a venial act of indiscreet friendship to gratify Sir Ernest Cassel's wish to facilitate his project of a loan to Russia by asking the Emperor to accord that interesting financier an interview, but he declined to speak in favour of a concession for an American firm, for obvious reasons.<sup>1</sup> On one occasion only was he unwise: the visit to Reval was not popular with the opposition and interpellations were made in Parliament, and Mr R. MacDonald with

<sup>1</sup> Lee, *Edward VII*, ii. 594, 595.

customary intemperance of language and lack of self-restraint not merely described the Emperor as a common murderer, but protested against the king "hobnobbing with a blood stained creature" like the Czar. A motion on June 4 elicited 50 votes against the visit. Unfortunately the king visited his wrath on three of the supporters of the motion by withholding invitations from his next garden party; the action was puerile and should never have taken place; it evoked the irrefutable criticism that he was endeavouring to prevent Parliamentary criticism by a use of his social power. But the episode was isolated, and it may be suspected that the king was chiefly vexed by reason of the prominence given to the criminal misgovernment of the ill-fated but completely incompetent Czar.<sup>1</sup>

The moment was favourable to diplomatic activity. The reign of isolation was beginning to pass away, and Lord Salisbury was to disappear from the control of foreign policy. The king at first was anxious to proceed on the lines of Mr Chamberlain's policy of securing an entente with Germany, but the great meeting of the king and Emperor at Wilhelmshöhe on August 23, 1901, at which Sir F. Lascelles, the Ambassador, was present, was a failure. Chamberlain retaliated on German attacks on British conduct of the war by reviving memories of German methods in 1870-1; von Bülow retorted on January 3, 1902, and the king backed his minister by suggesting that he would cancel the visit of the Prince of Wales to attend the Kaiser's birth anniversary celebrations. Matters then improved, but the king realised that alliances

<sup>1</sup> Lee, *Edward VII*, ii. 586-90. The absence of Sir E. Grey was rather widely censured (*Journals and Letters of Viscount Esher*, ii. 319, 322).

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in which he believed must be found elsewhere, and his ministers had decided on Japan. The king readily accepted, seeing the need, but he made a point as soon as the alliance was signed of informing the Kaiser, who expressed cordial congratulations. The king, however, realised that Germany and Britain were too far apart for alliance, and intimated when he saw Eckardstein privately on February 8, 1902, that Britain must seek peace and quiet by coming to terms with France. But he was anxious for friendship with Germany, and even endeavoured to induce *The Times* to cease its feud with that country, only to find his suggestion rebuffed, and his invitation of the Kaiser to Sandringham in 1902 led to his breathing on his departure, "Thank God, he's gone."

The approach to agreement with France had been gradually planned.<sup>1</sup> In Egypt the need of a free hand and of the denunciation of the understanding that the British occupation would be temporary was patent; in surrendering the protection of Morocco, which at one time Britain would have shared with Germany, could be found a *quid pro quo*. To further the entente the king began his long series of visits to foreign sovereigns, on which Sir C. Hardinge was wont to accompany him as minister plenipotentiary. He revitalised at Lisbon in 1903 the traditional alliance with Portugal, stressing the security thus afforded to the Portuguese colonies, and paid compliments to the king of Italy at Rome. When there he paid a private and informal visit to the Vatican.<sup>2</sup> The point was important, because the ministry was afraid to raise

<sup>1</sup> *Cambridge History of British Foreign Policy*, iii. 305 ff.

<sup>2</sup> Lee, *Edward VII*, ii. 231-3. But the King insisted that the Pope should not be toasted before himself in England.

ill-feeling, and would have liked the king to go on his own responsibility, but this the king properly refused to do. But though anxious to pay his respects he declined to do so unless allowed to pay the visit from the British Embassy, despite the Pope's reluctance to seem in any way to recognise the existence of Italian sovereignty in Rome.

The visit to Paris that followed was the greatest triumph in the king's life, for he visited a critical France, recently brutally offensive to everything British because of old scores and the Boer war. He went, was seen and heard, and conquered, much to the disgust of Germany, and M. Loubet's return visit was an equal success. The reconciliation of the peoples permitted the conclusion of the formal treaty of April 3, 1904, which marked the *entente cordiale*. In the negotiations the king's personal interest was keen, and even the drafting of Lord Lansdowne's notes received his attention.

But the king's satisfaction was marred in one detail, the insistence that the treaty must be approved by Act of Parliament, not merely because of financial provisions but also because "there can be no cession of any territory of His Majesty's without the consent of Parliament." The doctrine was, of course, that enforced against the view of Mr Gladstone among others as regards Heligoland in 1890, and the king was instigated by Lord Knollys and *The Times* to protest against it. But Mr Balfour remained firm, and as usual the king acquiesced, though with no satisfaction, for he was ever eager to retain any prerogative.<sup>1</sup>

<sup>1</sup> Lee, *Edward VII*, ii. 251, 252. Cf. Anson, *The Crown* (ed. Keith), i. 57, ii. 140; on the surrender of the Ionian Islands Protectorate, see *Letters*, ser. 2, i. 51 (1862).

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The treaty, welcomed by everybody of importance save Lord Rosebery, undoubtedly caused deep dissatisfaction in Germany, which so long had enjoyed the asset of Franco-British ill-will that the entente came as a great shock. In other fields the king also laboured contemporaneously to secure better relations; he visited the Emperor Francis Joseph at Vienna in 1903 and received him and Prince Ferdinand of Bulgaria at Marienbad next year, and effected contact with the latter which led to his being given in 1905 a royal reception in England, which "*l'homme le plus fin de l'Europe*" enjoyed to the full,<sup>1</sup> though it aroused suspicion in Turkey, already vexed at the British criticism of her action in Macedonia; it is interesting to note that the king urged a naval demonstration on Lord Lansdowne, but without success. Towards Serbia, however, the king was unrelenting; the murder of Alexander and Draga reflected discredit on that savage race, and diplomatic relations the king would not see restored, though the Russian and Italian ambassadors in 1905 asked by order for special interviews to urge condonation. On this occasion he insisted: "*Mon métier à moi est d'être roi. King Alexander was also by his métier un roi. . . . As you see I cannot be indifferent to the assassination of a member of my profession.*" Not until 1906, after the regicide officers had been removed for good from court, was a British minister accredited.

In the same spirit the king refused absolutely intercourse with Leopold of Belgium, for he recognised that he was responsible for the regime in the Congo which forms the one disgraceful and indelible blot

<sup>1</sup> Lee, *Edward VII*, ii. 268 ff.

in Belgian history.<sup>1</sup> But he welcomed the assurances he received that King Albert would inaugurate, as he did, a new and nobler regime, and it was only lack of time that prevented the kings meeting.

In the separation of Norway and Sweden in 1905 for family reasons the interests of the king were deeply engaged, which was rather awkward, in so far as the British government was determined to be strictly neutral, for reasons abundantly sound. But the king was concerned to secure that Norway should not become a republic but accept the best available candidate, Prince Charles of Denmark, if, as was certain, the king of Sweden would not allow acceptance of the throne by a Swedish prince, who would obviously have been placed in an invidious position. The procedure for affecting the change was difficult and slow, and the danger of war was always present, in which case collective arbitration by the great powers should he thought be offered. Ultimately it was found possible to achieve accord, and the new king was welcomed with all honours in London in 1906. The episode illustrates well both the complications due to dynastic connections and the use that can wisely be made of them. In the same way the king's connections with the royal family of Greece were turned to good account in regard to the thorny question of Crete. He gave excellent advice to Prince George, who had the thankless task of governing, he insisted successfully on the maintenance of the British share of the international garrison in 1904, and a tactful visit to Athens in 1906 secured the retirement of the Prince, who had lost touch with the

<sup>1</sup> Keith, *The Belgian Congo and the Berlin Act* (1919).



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people. His own aim, of course, was reunion with Greece, the course recognised equally by his ministers as essential in the public interest, but that was destined to be postponed until after the Balkan wars of 1912-13.

But the serious part of the king's efforts was necessarily directed towards improvement of the situation as regards Russia and Germany. The king rendered essential aid in the calmness which he manifested over the disastrous error of the Dogger Bank,<sup>1</sup> when the hapless fleet of Russia fired on British fishing vessels under the fear that they were Japanese. The king resented bitterly the outrage, but he understood how important it was to limit expression of feeling, and thus he laid the foundation for better relations in due course. Meantime the success of Japan resulted in the renewal and consolidation of the Japanese alliance, which secured the position of India, and thus formed a motive for Russian acceptance of an entente with Britain. Indeed it was only delayed by the opposition of Count Witte, who feared that any close relations with Britain would arouse German indignation. The king's tact was shown on the occasion of the visit of Prince Fushimi in 1906, when the playing of *The Mikado* was forbidden by the Lord Chamberlain as a matter of courtesy.

Meantime relations with Germany remained sullen; the king cancelled a visit of the Prince of Wales to attend the Crown Prince's marriage, and the Kaiser retaliated by forbidding the latter to accept the king's invitation to visit him later in the year. The Kaiser visited Tangier in March 1905 in order to demonstrate

<sup>1</sup> Lee, *Edward VII*, ii. 301-4; Fitzroy, *Memoirs*, i. 222, 223, 230.

the impotence of France to derive the benefits she hoped for from the Franco-British alliance, and, though the king at Paris supported the French attitude, on June 6 panic seized the Rouvier ministry and M. Delcassé as the begetter of the entente was jettisoned, for the debacle of Russia had weakened French self-confidence. On July 25 the feeble Nicholas was cajoled into signing at Björkö a compact which was a betrayal of the French alliance, and had to be repudiated the moment Count Lamsdorff saw its terms. But British policy under Sir E. Grey maintained the entente; Algeciras saw, on April 7, 1906, after brilliant British diplomacy, a settlement which left French influence in Morocco intact and exhibited the Kaiser to the world as the author of a needlessly provocative policy. But the king was far from anxious for hostility to Germany and readily met the Kaiser at Cronberg, where they agreed, on the death of the Emperor Francis Joseph, to recognise as Empress the Archduke's morganatic wife.

The king, however, undid whatever good resulted in German eyes by his visits to meet the kings of Spain and Italy. With the former business was transacted as well as pleasure, for a treaty for the maintenance of the *status quo* in the Mediterranean was discussed, as part of a plan to bring Spain and France into closer relations, since Spain felt doubts as to French friendliness in Morocco. The legend of the king's desire to encircle Germany seems to have started its hardy life at this time, inspired by Baron Greindl,<sup>1</sup> the Belgian Minister at Berlin; it must be remembered that the king's disapproval of the Congo atrocities leagued

<sup>1</sup> E. D. Morel, *Diplomacy Revealed*, pp. 54, 74 ff.

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against him all servants of Leopold. The fact, however, of the belief was destined to do grave injury which nothing could eradicate. It is true that the king met the Kaiser on the continent and that the latter visited Windsor and all seemed in train for a reconciliation, only to be ruined by the announcement immediately thereafter that the German Admiralty had fixed the effective life of battleships at twenty instead of twenty-five years.

In the meantime accord had at last been reached with Russia. The king had long regretted the diminution of British influence in Persia; he had reluctantly and too late given the undeserved Garter to the Shah. An accord with Russia alone could settle the issues of Persia, Afghanistan, and Tibet, but it was hard to achieve, and the famous declaration of Sir H. Campbell-Bannerman, "La Duma est morte; vive la Duma," on the occasion of the fatal folly of the Czar in dismissing his first Duma, did not render relations easy.<sup>1</sup> But gradually matters improved, though the king was anxious lest the interests of India should be overlooked, and the government of India quite correctly pointed out that the conclusion over his head of an accord regarding his territories must annoy with just reason the Amir. It was, however, felt that he was powerless for evil if Russia withheld support, and the treaty was duly ratified on September 23, 1907. Germany apparently acquiesced in an agreement which manifestly was not anti-German.

The Reval meeting with the Czar in June 1908 marked a climax in cordiality of relations, excusing

<sup>1</sup> Lee, *Edward VII*, ii. 567.

the king's exercise of his power to create his guest an Admiral of the Fleet without previous consultation with the Admiralty, doubtless at the instigation of the mischievous Sir J. Fisher. With Germany relations grew worse ; Fisher's fleet dispositions were answered by the third naval law which added 20 per cent. to German expenditure, and to counteract the effect of the anti-British policy the Kaiser addressed to Lord Tweedmouth, First Lord of the Admiralty, his famous letter in which he explained that there was no hostile aim against Britain.<sup>1</sup> The king regarded the incident with disapproval, and Lord Tweedmouth made the error of sending the Kaiser the British naval estimates, not yet published. The discussion in Parliament of the episode rendered the disappearance of Lord Tweedmouth from the Admiralty in Mr Asquith's ministry inevitable, and he died next year. An effort to discuss naval matters with the Kaiser at the royal meeting at Cronberg urged by Sir E. Grey proved impracticable and demonstrated the hopelessness of German acquiescence in abatement of naval rivalry. Matters were made worse by the unhappy publication of an imprudent interview with the Kaiser in the *Daily Telegraph* of October 28, which brought down on the Kaiser the wrath of his Chancellor and of the Reichstag, and induced him to throw himself once more on the side of hostility to Britain, expressing an unfavourable opinion of the king to an American journalist. The Kaiser's *démenti* of the words used did not convince the king.

From Cronberg the king went to Ischl, where the Emperor proved inaccessible to hints asking his help

<sup>1</sup> Lee, *Edward VII*, ii. 604-10 ; Fitzroy, *Memoirs*, i. 351, 352.

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to stop the German naval rivalry, and repaid the candour of his guest by remaining absolutely silent on the fatal policy of von Aehrenthal to annex Bosnia-Herzegovina without prior consultation of the states of Europe. The news when it reached the king in October was bitterly resented; not only had the Emperor deceived him but Aehrenthal had lied to Sir E. Goschen. Contemporaneously Ferdinand of Bulgaria declared his independence. British policy was powerless to effect any real amelioration of the situation, and the king, in cordial concurrence with his ministers, was reduced to endeavouring to save appearances. Turkey was given compensation by Austria and Bulgaria in cash, and the treaty of Berlin, which had been thus violated, was formally amended by the great powers in April 1909, so in theory establishing the rule that international treaties cannot be altered by unilateral action. The result, of course, was fatal for European peace. Russia and Serbia felt their humiliation, and war between them and Austria was made inevitable. Aehrenthal the king refused to forgive, with just cause, for he had ensured war in Europe, which he did not live to see. He still worked for peace, visiting Berlin in 1909, but he had come to realise that war might be inevitable and his anxiety over the progress of naval construction now became marked. It was stimulated by Sir John Fisher, but it was doubtless largely natural, due to his realisation how little Germany was likely to cease a competition which must one day produce determined action.

The legend of encirclement<sup>1</sup> of Germany is not in

<sup>1</sup> The Kaiser insisted on it in 1908 (*Cambridge History of British Foreign Policy*, iii. 400).

the least likely to cease to enjoy popularity. It is plain that the king and his ministers were totally without any constructive policy such as that implied. They were living from day to day in the hope to reduce causes of friction and to create conditions which would promote European security. Despite all the revelations of European diplomacy since the war, nothing has been found which to an impartial judgment lends any substance to the denunciation of the king's policy. Nor was it his, except as shared by ministers who were primarily responsible though they were willing to receive the suggestions and criticism of one who knew European politics and European diplomats. At times he felt that they asked him to do more than was proper, as when he was urged to take up the naval issue at Cronberg, but as a rule he was only too pleased to further their ends in any way, for diplomacy<sup>1</sup> was in many ways his *métier* as much as kingship, and in that capacity his character and abilities were far superior to those of the Emperor, his rival. His interest in the efficiency of the diplomatic service was untiring and led to various suggestions to fill ambassadorial posts. He early saw the merits of Sir R. Rodd, and in 1904 vainly tried to secure for him a post more worthy of his abilities than Stockholm, but Sir A. Herbert was given Christiania at his suggestion. He disapproved of retention of office at advanced age, and so insisted on the termination of Sir F. Plunkett's term at Vienna, obtaining instead the appointment of Sir E. Goschen.

<sup>1</sup> Soveral said: "Vous êtes un grand diplomate, un homme d'état remarquable, et vous l'ignorez" (*Journals and Letters of Viscount Escher*, ii. 460).

It was also at his urgent request that Sir E. Goschen undertook what he knew to be an ill-fated mission to Berlin, when in 1908 it was decided that Sir F. Lascelles was too pro-German, and despite the king's support the Emperor showed himself reluctant to accept Sir F. Cartwright, on the score of a youthful indiscretion.<sup>1</sup>

### 3. *George V and European Relations*

The new king had to take up a position of great difficulty, for he was without the knowledge and experience of his father in foreign affairs, though he had been long accustomed to have the vital despatches circulated to him. Moreover the storm which so long had been brewing was soon to burst. Germany precipitated it by landing at Agadir and reopening in July 1911 the Moroccan issue.<sup>2</sup> The events that followed suggest that the freer hand now given to the ministry was not wholly fortunate, for the speech of the Chancellor of the Exchequer on July 21, 1911, in assertion of the position of Britain as a great power, though approved by Sir E. Grey, was rather provocative. But it helped to clear the air and the Moroccan business was closed by a treaty of November 4, 1911, in which France made some concessions of territory. Italy at once rushed in to seize Tripoli without a shadow of legal right or moral excuse, but the British government could only be neutral.

An effort was then made, with the king's cordial assent, to secure better relations between Germany

<sup>1</sup> Lee, *Edward VII*, ii. 181, 182, 619.

<sup>2</sup> *Cambridge History of British Foreign Policy*, iii. 439-56.

and Britain, and Mr Haldane's famous mission was despatched in 1912, but it failed to achieve its end because Germany desired to assure herself of British neutrality in a war with France, and Britain could not risk seeing Germany in command of the channel ports. The necessities of common defence led to closer relations with France, effected by discussions between the staffs and placed on record on November 22, 1912, by Sir E. Grey. These arrangements had the demerit of virtually promising France aid if attacked, without imposing a formal obligation.<sup>1</sup> But relations with Germany were not hostile, and British and German influence was employed to secure in 1913 the settlement of the war waged by Serbia, Bulgaria, Montenegro and Greece on Turkey; the negotiators met in London and received marks of courteous regard from the king, who had every reason to be pleased at the conduct by Sir E. Grey of the conference. The attack later by Bulgaria on her allies and her discomfiture were due to no error of British diplomacy.

It seemed for a time possible to secure better relations with Germany; in May 1913 the king visited Berlin and in 1914 accords were patched up regarding the Bagdad railway and possessions in Africa, but at the same time ties with France were cemented by M. Poincaré's visit to London in June 1913 and the very successful visit of the king and queen to Paris in April 1914, when for the first time during his term of office Sir E. Grey went abroad. He entered into relations with Russia similar to those with France, including a proposed naval accord, but firmly denied the possibility of any alliance either with France or

<sup>1</sup> Spender, *Life of Lord Oxford*, ii. 70-5.



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with Russia. The king had fully realised the value in reassuring French opinion of his visit, and the hope could be entertained that peace might be secured by the evidence of solidarity of interests between Britain, France and Russia, coupled with British anxiety to see that Germany had her place in the sun. Possibly the hope might have been gratified if it had not been for the deplorable murder of the Archduke Francis Ferdinand and his wife by Austrian Serbs at Serajevo on June 28, 1914. The events that followed were dictated by the determination of Austria to crush Serbia and the failure of Germany to act in time to prevent this wicked attempt; when later the Kaiser thought of staying Austria's advance the mobilisation of Russia, which was the necessary result of Austria's onslaught, resulted in a German ultimatum which left no chance for any result but war. It might indeed have been possible to avert this result if the British Cabinet had been united in preparation to defend France, but on August 1 the king had to confine himself in replying in vague and unsatisfactory terms to the President's earnest request for an assurance of help. But the invasion of Belgium, whose king appealed to George V on August 3, brought over the doubters in the Cabinet with the exception of Mr Burns and Lord Morley, and war became inevitable. It must be admitted that there rests on Mr Lloyd George the gravest responsibility for hesitation at a critical moment, and against such services as he rendered in the war must be set the fact that perhaps had he had greater insight no war need have taken place.<sup>1</sup>

<sup>1</sup> His own apologia and attack on Sir E. Grey in *War Memoirs*, i. 70 ff., 89 ff., are ineffective.

But short views were always to mark his political career.

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The king naturally accepted with satisfaction the final decision of ministers to carry out what was little less than an obligation of honour, and his services were soon engaged in efforts to induce the Sultan of Turkey to remain neutral at least, a vain effort, since by an accord of August 1 Turkey was bound to the central powers. But in retaliation Cyprus was annexed and Egypt became a British protectorate. Italy was secured as an ally by the accord of April 26, 1915, which promised the southern Tyrol and northern Dalmatia despite the racial unfairness involved. Later, in order to secure Greek aid against Bulgaria, the king consented to the offer to cede Cyprus, but Constantine refused the proposal and dismissed M. Venizelos, while Serbia was overrun and the Dardanelles had to be abandoned. In 1916 Rumania at last joined, only to meet grave defeat, and then victorious Germany proposed terms negotiations, which were rejected, as also suggestions of the President of the United States. The result was the decision to enter upon unrestricted submarine warfare, which brought the United States into the war. Austria, however, was anxious for peace, which alone might save the Empire of the young Emperor who succeeded Francis Joseph in November 1916, and it was proposed that the king of Italy might visit the British and French armies to discuss matters with King George and the President, accompanied by their Prime Ministers. But Italian opposition denied the success of the scheme. Moreover, the abdication of the Czar in March was followed in November by the

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virtual retirement of Russia from the war on the disappearance of the Kerensky regime. Though the Russian collapse resulted in a new statement of allied terms on January 5, 1918, the gulf between their demands and those of the central powers was too wide to be spanned, and thus the issue was left to the arbitrament of war, which ultimately led to the peace of 1919.

In these momentous events the part of the king was necessarily that of approval,<sup>1</sup> and in the whole conduct of affairs he never deviated from support of his government, even in regard to the treatment meted out to the king of Greece, though it was often suggested most unfairly that he was reluctant to allow the allies to proceed to the strong step of removing him from the country in 1917. The overthrow of so many royal families related to the king naturally made a deep change in modes of conducting foreign affairs. The private letters of Queen Victoria, the interviews of Edward VII, were now largely out of place, and it was impossible for the king to do anything to moderate the exaggerated demands of the allies. His Prime Minister was largely to blame, but the House of Commons was determined to secure full compensation and it had not the knowledge to realise that it was sowing the seeds of future wars, nor would the Prime Minister risk his darling popularity by telling it so, especially as Lord Northcliffe, denied any share in the negotiations, revenged himself by mobilising his press against his enemy.

<sup>1</sup> He corresponded energetically as desired by ministers with the Czar and invited him to England in 1917 (Lloyd George, *War Memoirs*, iii. 1638 ff.).

In the subsequent years of conferences and negotiations the king performed with energy his part in welcoming those diplomats whom business brought to England. His interests were specially involved in the question of terms with Turkey, after the rising of Mustapha Kemal had banished the treaty of Sèvres from the realms of possibility. He was appealed to by his Muhammadan subjects in India to mitigate the losses inflicted on the Sultan, who was hailed as the Khalifa. The episode cost the government the services of Mr Montagu,<sup>1</sup> whose proposals for reform had been accepted by the king, but the case was overwhelming, however unfortunate Lord Curzon's manner may have been, and in due course the irritation in India disappeared when Turkey abolished the Sultanate and turned to modernisation and the substitution of the Swiss Civil Code for Muhammadan antiquities. With the Locarno pact of 1925 some relief from tragedy seemed to have come to Europe, and the king's deep appreciation of the services of Sir A. Chamberlain were marked by the conferring of the Garter as a signal mark of favour. It was perhaps fortunate that the king was spared the spectacle of the denunciation of that compact by Germany in March 1936, thus reopening a new chapter of anxieties in Europe. The Kellogg pact for the renunciation of war as an instrument of national policy in 1928 won also his cordial appreciation. In the same spirit his reception of the delegates to the Naval Conferences of 1930 and 1935 in London signalled his deep concern with the achievement of an abiding peace through disarmament. Among

<sup>1</sup> Nicolson, *Curzon*, pp. 267, 268.

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more personal matters may be reckoned the wise influence exercised by the Court on the young king of Greece, whose successful adoption of a constitutional regime in 1936, despite the temptation to accept the domination of General Kondylis, may justly be ascribed to the lessons imbibed during contact with the king and his entourage.

As under Lord Beaconsfield there developed, during the period immediately following the war, a condition of affairs in which the Prime Minister for many purposes engrossed the business of the Foreign Secretary, though in this case there was no hostility between the sovereign and the latter. But Lord Curzon continued to remain at his post, apparently being uninterested in many aspects of the western negotiations which Mr Lloyd George made his personal concern. The resentment, however, thus engendered smouldered, and broke out into flame at the end of 1922 when Lord Curzon found his opportunity to abandon the coalition and align himself with the government of Mr Bonar Law, whose formation was greatly aided by his action.<sup>1</sup>

The comparative subservience of the Foreign Secretary was, of course, the source of a substantial accretion of power to the Prime Minister, and the example of Mr Lloyd George was followed in this regard by Mr R. MacDonald, who in 1924 copied the action of Lord Salisbury and assumed the office of Foreign Secretary, thus overburdening his powers and hastening the fall of his ministry. In his second ministry in 1929-31 he did not repeat this error, but assumed the right of keeping a close eye on foreign

<sup>1</sup> Mallet, *Lloyd George*, pp. 154-72.

affairs, which did not make for complete harmony with his Foreign Secretary. This friction no doubt helped to increase the acrimony of the break-up of the ministry in 1931, when Mr Henderson ranged himself on the side of the dissidents, and secured the adhesion of the vast majority of the party to their side. On the other hand, the danger of permitting too great freedom of control to the Foreign Secretary was seen in 1935 when the Cabinet, most unwisely, permitted the minister to negotiate in Paris without subjecting him to effective supervision, and thus had to accept *ex post facto* responsibility for the Hoare-Laval terms offered to Ethiopia. The necessity of disowning the minister was admitted by the Prime Minister, who apologised for the failure of the Cabinet to control his proceedings.<sup>1</sup>

It is obvious that the episode reveals a serious danger, which is aggravated by the weakening of royal intervention in the sphere of foreign affairs. Under Edward VII the ministry had always to keep the king effectively informed, and he was able to maintain a steady right of criticism of their proceedings. Without such control the Foreign Secretary or the Prime Minister or the two combined may come to exercise a dangerous authority. It follows, therefore, that it is particularly desirable that the king should continue to keep in close touch with all issues of foreign policy, and that he should be ready to ensure that every proposal of first-rate importance is duly weighed by the Cabinet. The results of foreign issues may be so far-reaching that as little room as possible should be left for personal error.

<sup>1</sup> Parl. Paper, Cmd. 5044; cf. Keith, *Journal of Comparative Legislation*, xviii. 110 ff.

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There is, of course, a further reason to expect that the king shall be specially careful to follow the progress of British diplomacy. It is to him that the electorate must look for the maintenance of a wise restraint on any schemes of the ministry which may seem to involve the country deeply, and he must retain the right if necessary to compel the ministry to submit vital issues to the people, or to resign office and allow another ministry to take this step. No doubt this as always is an *ultima ratio*, but the right cannot be denied. A ministry is elected necessarily only on a general foreign policy, and, if events emerge which render change of this policy necessary, it is for the king to consider whether or not the change is so vital that he should recommend ministers to take the opinion of the people on it. It would always be difficult for ministers to refuse such a request in a matter of serious consequence. No ministry has any moral right to embark on fundamental foreign policies without electoral authority. It cannot be denied that a very painful impression was caused throughout the country when it was learned that the British government had proposed to facilitate the settlement of the Ethiopian question by the grant to the Emperor of access to the sea by the transfer of protected territory in Somaliland. It seems as if the ministry contended that it could do so without securing in advance the assent of the king to the proposed measure, a doctrine which is clearly unsound, and which would have appeared utterly heretical to Queen Victoria, who had earnestly to be persuaded into the sacrifice of Heligoland to Germany for substantial consideration in 1890. No doubt the attitude of Queen Victoria in

the events of 1876-8 was too drastic.<sup>1</sup> Her desire for war led her into pressure of a very severe kind on her ministry and her Prime Minister, who gave vent under it to the amazing doctrine that, though the ministry could not as men of honour resign when unable to carry out her wishes, "your Majesty has the clear constitutional right to dismiss them."<sup>2</sup> Plainly the distinction is invalid. The constitutional rule is for the ministry to present the Crown with the choice between acting on its advice or accepting its resignation.<sup>3</sup> To force the Crown to the formal act of dismissal is a needless exacerbation of feeling. But the Prime Minister was right in recognising throughout that it was due to the Queen to endeavour to secure in all that was done her full co-operation, leaving it to her to refuse assent to the decisions of the Cabinet if she felt that they no longer represented the will of the electorate. To ignore the sovereign is to deprive the people of a safeguard which might become of grave importance if a new ministry elected on some domestic issue were suddenly to desire to alter British foreign policy. To take a most improbable instance, a ministry which proposed unilateral disarmament as a gesture to restore peace and good will in Europe could not expect royal assent except on a definite popular mandate.

There is unquestionably a tendency to regard the progress of the relation of the sovereign to foreign affairs as that of a steady decline. Thus it has been

<sup>1</sup> It led to an attack on her exercise of the prerogative on May 13, 1879, by Mr Dillwyn and Mr Courtney, replied to by Mr Gladstone (*Letters*, ser. 2, iii. 18-20).

<sup>2</sup> Buckle, *Life*, vi. 246.

<sup>3</sup> Lord J. Russell, September 7, 1859 (*Letters*, ser. 1, iii. 472).



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said<sup>1</sup> that the services of Edward VII were those of an ambassador, not of a Foreign Secretary, diplomatic as distinguished from political. "By the time he ascended the throne the power to initiate or to obstruct a foreign policy had passed irrecoverably beyond the reach of the Crown. And his own influence upon Foreign Affairs fell, probably, as much short as that of his mother as it exceeded that of his son. The change reflected one side of that vast movement away from privilege and towards democracy which is the unexhausted commonplace of the age we live in." It must be doubted seriously whether this assertion is not misleading. The power of the Crown to initiate or obstruct a foreign policy existed under Queen Victoria solely when there were divergences of policy in her Cabinets, and when therefore royal support might deflect the purpose of the Prime Minister. In those conditions she could do useful work of a type which has evoked the almost unstinted admiration of a student of foreign policy from 1815 to 1874.<sup>2</sup> There is no reason to suppose that equal authority might not be exerted by the king to-day if like circumstances arose, though the gradual growth of the authority of the Prime Minister diminishes the probability of a repetition of Cabinet dissensions of the type not rare before the death of Lord Palmerston, and the appearance of Mr Gladstone as Prime Minister. Mr Cecil stresses the dominating position apparently assumed by the Queen in 1878, when the Cabinet discussion of January 12 turned on a letter from her Majesty in which she urged that the national honour

<sup>1</sup> *Cambridge History of British Foreign Policy*, iii. 615.

<sup>2</sup> Seton-Watson, *Disraeli, Gladstone and the Eastern Question*, p. viii.

required an immediate decision to defend Constantinople and claimed that the feeling of the nation was behind her. But after all the Queen was merely in this case using the influence that assuredly belongs to the sovereign when there is division in the Cabinet, but, while she had at one time opposed her Prime Minister, she was now engaged in supporting him against Cabinet dissent. She carried it, of course, to the length of driving Lord Derby in March from the Cabinet and into the arms of the Liberal party.<sup>1</sup> But the fact remains that the policy was that of her Prime Minister, and that he restrained her from her desire to go to war with Russia. In 1893<sup>2</sup> again the Queen was most urgent with her ministers to strengthen the British forces in Egypt and to support Lord Cromer in his determination to keep the young Khedive, Abbas II, in his place. But the policy which she approved had already the support of the Foreign Secretary, whom she had induced to take office, and the final determination of the ministry to strengthen the garrison was based on military opinion corroborating that of Lord Cromer.

It might indeed be said that Edward VII's influence was greater than his mother's in view of his untiring energy and activity in continental visits and conversations with kings and ministers. Certainly his son had no opportunity to emulate the full activities on this head of his father, for he was concerned with grave issues of home politics and engaged in a visit to India which his father had declined to take, while after the

<sup>1</sup> Seton-Watson, *Disraeli, Gladstone and the Eastern Question*, pp. 356, 512-17.

<sup>2</sup> *Letters*, ser. 3, ii. 203 ff.

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war the whole system of continental politics had been altered by the sweeping away of the German and Russian Emperors and the breaking up of Austria-Hungary. There was no room, therefore, for the king to exercise the diplomatic functions of his father, but there is no real proof that there has been any fundamental change in the royal influence, as the outcome of the advance of democracy, except indirectly in the sense that Prime Ministers have more authority now as a normal rule than of old. If in the future this should again change, as in the event of the development of a three-party system, and if the king should desire to exercise influence, there seems no ground why he should not do so as fully as Queen Victoria or Edward VII. It is also an error to distinguish in any vital sense between the authority of these two. In both cases it was advisory only; neither had power, for that had irrevocably disappeared with the Reform Act.

## CHAPTER XI

### THE KING'S INFLUENCE IN DEFENCE ISSUES

#### 1. *The Conservatism of Queen Victoria*

It was natural that William IV should be interested in naval questions, for his own early career had been at sea and it was an untoward series of events which precluded him from ever attaining the command he desired, while the brief tenure of office as Lord High Admiral which was accorded to him resulted in a severe snub from his brother on the score of the usurpation of powers not constitutionally his.<sup>1</sup> But the young Queen very naturally had no special interest in the Navy, nor was she fond of the sea, so that for good or ill her interests throughout her reign were directed to the Army. She was always willing to take up matters referring to her Army, and Lord Esher<sup>2</sup> no doubt was quite fair when he stated that a new Secretary of State for War would not have an easy time, since the Queen was inclined to listen to soldiers in preference to ministers. It must be remembered also that in the nature of things military questions were more easily apprehended by the Prince Consort, and that in the presence of the Duke of Cambridge, her cousin, as Commander-in-Chief the Queen was

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<sup>1</sup> G. E. Thompson, *The Patriot King*, pp. 148-59.

<sup>2</sup> *Journals and Letters*, i. 269.

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assured of being kept closely in touch with a fine Conservative type of military mind. In the case of the Navy the Crown was represented by the Lords Commissioners of the Admiralty, but in the case of the Army there was nothing to obscure the existence of the prerogative royal, and the Queen was always sensitive in the extreme on the point of her position towards that force.

In the earlier years of her reign her chief preoccupation lay in efforts to induce the governments who served her to improve the forces. That attitude was not unnatural, for the military preparations of the day were curiously inadequate, and in the Crimean war they were found to be most deficient. The Queen is found urging the enlisting of the necessary number of men to make good the obligations of the government in regard to the war with Russia, and she showed her keen interest in the miserable fate of our soldiers at Sebastopol by the favour which she extended to Florence Nightingale. But her dissatisfaction over the Crimean muddle was soon transferred to the apparent failure of her ministry effectively to reinforce the Indian army in its efforts to combat the mutiny. On Lord Palmerston she urged the improvement of the militia, but it seems dubious if she seriously disturbed his insouciance.<sup>1</sup>

A much more interesting constitutional issue presented itself in the matter of the position of the Indian army on the transfer of the administration of India from the East India Company as a sequel to the mutiny. The Queen was gravely displeased by the attitude of Lord Derby in 1859 on the question of the

<sup>1</sup> *Letters*, ser. 1, iii. 306-12, 326, 330.

position of the European forces of the Company, and caused him deep pain and perplexity by informing him that she could not sanction under any form the creation of a British army distinct from that known as the Army of the Crown. She would consider such action dangerous to the maintenance of India, to the dependence of the Indian Empire on the mother country, and to her throne in these realms. Such an army would be freed from the proper control of constitutional monarchy, removed from the direct command of the Crown and entirely independent of Parliament, an unconstitutional amount of power and patronage would be thrown into the hands of the Indian Council and government, and the Indian army would be permanently hostile to the regular forces. It is not surprising that Lord Derby feared that it might "leave him no alternative but that of humbly entreating to be relieved of a responsibility which nothing should have induced him to undertake but a sense of duty to your Majesty and the conviction that he might rely with confidence upon your Majesty's continued support." He could not discuss freely with his colleagues the position in view of the Queen's warning that she would not accept one form of advice if tendered. The Queen in reply greatly modified her position, and virtually allowed the Prime Minister to submit such advice as he finally determined, while making clear her views. The issue was finally adjusted by the adoption of a system under which no distinct European army was continued in being.<sup>1</sup> On

<sup>1</sup> *Letters*, ser. 1, iii. 404 ff.; Keith, *Constitutional History of India*, p. 188. The Queen complained of interference with her prerogative of war and peace.

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the whole there seems to have been a good deal of misunderstanding on the part of the Queen, and the policy of the government can hardly have been affected by it.

In another issue, this time of home interest in special, the Queen was induced to take action which at the time attracted a good deal more attention than seems to have been deserved on the constitutional side. The government of Mr Gladstone determined to abolish the purchase of army commissions for reasons of abundant weight. But the system, which was illegal save as specially authorised by royal warrant, had been in practice conducted on lines outside the warrant. Prices in excess of those allowed therein had regularly been paid, and the government therefore, in determining to end the system, was anxious to regulate the position by Act of Parliament which would in effect indemnify irregular payments in the past. Difficulty arose in the Lords, and the government decided on an effective stroke. The system existed only under a royal warrant, and by the withdrawal of the warrant it ceased to be legal. The ministry therefore could be assured of the acceptance of their proposals for legislation without long delay by the Lords, since otherwise their protégés would be left unprotected. The Queen saw the force of the argument and signed the warrant.<sup>1</sup> It was not, of course, an act of prerogative power, but the exercise of a statutory authority, and the impression of the revelation of the great reserved powers of the Crown made on Bagehot's contemporaries seems strange. But the Queen's good sense is

<sup>1</sup> *Letters*, ser. 2, ii. 151-4; *Morley, Life of Gladstone*, ii. 361-5.

shown to advantage. Her anxiety to avoid injustice to individuals is seen in the energy with which she urged Mr Cardwell to appoint a commission to investigate alleged grievances, and though the minister demurred the step was actually taken a little later. Of Mr Cardwell and his great reforms the Queen had no opinion, for the Duke of Cambridge was far from approving any change, and most amusingly she suggested in 1871 that the retirement of the Speaker would afford an excellent opportunity of disposing of the minister. It is significant that in 1880 she complacently enlightened Mr Gladstone that his colleague's plan had broken down, a fact of which the Prime Minister was clearly unaware. At the same time<sup>1</sup> she expressed plainly her ideal of the Secretary of State as "no mere theorist but someone who will act cordially and well with the Commander-in-Chief."

It was quite inevitable that, holding these views, the Queen should have been ready to support generals against her advisers. The most interesting example of the length to which she would go in a cause she deemed sufficiently important is to be seen in the remarkable letter sent to Lady Wolseley on March 3, 1885, when she urged her to hint to her husband that he should threaten resignation if the government did not accord him the support he demanded.<sup>2</sup> In the same way she pressed the ministry in the Boer war to adopt the advice of Lord Roberts as to the measures to be adopted, but in neither case did she probably actually affect the action taken. The issues were not in her own sphere, and her chief motive was suspicion of civilian interference in matters she deemed military.

<sup>1</sup> *Letters*, ser. 2, iii. 76.

<sup>2</sup> *Ibid.*, iii. 619.



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Of the true inter-relation of civil and military authority she had no clear understanding.

Her limitations of outlook and the extent of her deference to the views of her cousin were exhibited most strongly in regard to the famous Hartington report on the reform of the War Office. She was at first interested in the work of the Royal Commission, but its report she hated, "that really abominable report, which she beyond measure is shocked should have emanated from a Conservative government."<sup>1</sup> We need not see in her hasty words evidence of failure to distinguish between the views of the government and those of the Royal Commission. The Queen was quite right in thinking that the Commission was so constituted that the report was practically an expression of the general position adopted by her ministry. The head of offence was, of course, the proposal to abolish the office of Commander-in-Chief. She had been horrified to hear that the idea was in the air, and had even required her Private Secretary to take steps to prevent it being discussed; we seem to have faint echoes of the mandates of Elizabeth to her faithful and subservient Commons. She was satisfied that the proposal invaded the royal prerogative: "one of the greatest prerogatives of the sovereign is the direct communication with an irremovable and non-political officer of high rank, about the army."<sup>2</sup> She had in fact imbibed in youth the doctrine enshrined in the counsel given by the Duke of Wellington that the Prince Consort should assume the duties of Commander-in-Chief as a mode of counteracting the growing power of democracy and

<sup>1</sup> *Letters*, ser. 3, i. 582.

<sup>2</sup> *Ibid.*, i. 600.

the steady weakening thereby of the executive. It was in vain that Lord Wolseley with some courage warned her that the position had been undermined by the systematic resistance of the Duke of Cambridge to every needful reform, and with delicate skill pointed out that the objections urged to the appointment of the Duke of Connaught as Adjutant-General had been inspired by the dislike of having a royal prince in office owing to experience of the Duke of Cambridge's methods.<sup>1</sup> The Queen was clearly moved by two considerations: she did not desire to remove her cousin from office, and she wished it to be preserved for the use of her son.

It resulted from her obstinacy that only in 1895 had Sir H. Campbell-Bannerman the firmness of mind necessary to move the Duke of Cambridge from his office. The Duke could not be induced to resign, and ultimately the influence of the Queen at its highest had to be exerted to induce him to relinquish the post at her request, and the Cabinet was unable to soften the blow by the grant of the pension for which he asked.<sup>2</sup> The Queen undoubtedly acted as she did in the hope that at the end of the tenure of the office revised in powers by Lord Wolseley she would secure the reversion for her son, and in 1900<sup>3</sup> she was deeply disappointed when she found that the Cabinet was clear that it could not pass over Lord Roberts in this matter. A gleam of hope was suggested in the idea that Lord Roberts might take the Secretaryship of State for War, but that admirable soldier, who in his lifetime was regarded unfairly as a crank in his perception of

<sup>1</sup> *Letters*, ser. 3, i. 627.

<sup>2</sup> *Ibid.*, ii. 512 f., 516, 518 ff.

<sup>3</sup> *Ibid.*, iii. 594, 596 f.

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the inadequacy of British war preparations, was far too sensible to accept an office whose duties he was ill-qualified to discharge. The Queen therefore died without seeing her ambition secured. But her last year of life was most honourably marked by the touching sincerity of her interest in and sympathy with her troops in their arduous struggle. Moreover, even to the peccant generals who showed so little capacity in their operations she was prepared to extend leniency, and she engaged in a most severe controversy over the publication of the Spion Kop despatches as contrary to the public interest in time of war.<sup>1</sup> It is curious to note that the Prime Minister tried to throw the blame on Lord Lansdowne for misunderstanding a Cabinet decision; it is fairly clear that this was not the case, but the mode of conducting Cabinet business was, and until the creation of the Cabinet Secretariat during the war remained, so slovenly that any kind of error was only to be anticipated. Her patriotism and her interest in defence explain her famous visit to Ireland, which overtaxed her strength and led indirectly to her death, and to her sanction of the creation of the Irish Guards. She rewarded generously the officers whose services redeemed the errors of the campaign, and exhibited one quality which was invaluable. From first to last the idea of defeat or despair was foreign to her,<sup>2</sup> a characteristic symbolic of her whole outlook on life, and well worthy of a British Queen.

<sup>1</sup> *Letters*, ser. 3, iii. 533, 536, 539, 541. Lord Lansdowne in 1897 was severely rebuked for altering names of regiments without authority (iii. 133).

<sup>2</sup> Lady G. Cecil, *Life of Salisbury*, iii. 191.

## 2. *King Edward and the Army*

It was natural that Edward VII should share to the full his mother's interest in the Army ; heredity counts and, though the family never produced a good general, all its members have leaned to interest in war, and to that side of his character Edward VII added a marked fondness for details of uniform and accoutrements. Moreover the times were such as to bring the Army well into the forefront of his interests. The war revealed wholesale defects and demanded great remedies, and the king from his preoccupation with European politics was only too well aware of the precariousness of the peace, which he worked so hard to secure by the system of alliances which should have secured that the power in Europe was too evenly divided to allow attack on either side.

Under Mr Brodrick, a plodding minister of no substantial ability, it was hopeless to have much done<sup>1</sup> to remedy the disastrous mistakes revealed in the report of the Royal Commission on the South African War, which he most reluctantly had consented to appoint. But in October 1903 the reconstruction of the Cabinet after the resignations of ministers on the free trade issue brought to the War Office Mr Arnold-Forster, who was an enthusiast, and the king advanced under the guidance of Lord Esher, who had served on the South African Commission and thereafter claimed to be a standing adviser of the king on all matters military or indeed otherwise. He was now appointed with Sir John Fisher and Sir George Clarke to serve as a Committee on War Office

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<sup>1</sup> Lee, *Edward VII*, ii. 92, 93.

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Reconstruction. The king urged Lord Grenfell to serve, but the latter explained at an audience his difficulties, from the point of view of a serving officer, so clearly that the king waived his desire. His personal interest in the appointments was shown in the form of the announcement of the setting up of the Committee by the Prime Minister with the king's approval and after consultation with the Secretary of State for War. Shortly after he negatived the desire of Mr Balfour to alter the name War Office, showing in his objection a feeling for tradition which was absent from the subtle intellect of his philosopher Prime Minister.

The result of the work of the Committee was decisive.<sup>1</sup> The office of Commander-in-Chief was to be abolished, and there was to be constituted an Army Council on the lines of the Board of Admiralty, thus terminating the duality which had been a curse of the system and bringing the whole control directly into the hands of the Secretary of State for War, subject to Parliament. The plan was ingenious and sound, and it is a testimony to the king's acumen that not only did he accept it, but as the matter fell in considerable measure within the prerogative, advised the government to give effect to the project without prior consultation with Parliament. At the same time as the office of Commander-in-Chief was abolished, the new post of Inspector-General was invented, and after a formal offer to the retiring Commander-in-Chief, which was couched so as to secure refusal, the Duke of Connaught was appointed, while Lord Roberts was given a seat on the newly

<sup>1</sup> Anson, *The Crown* (ed. Keith), ii. 238 ff.

revived Imperial Defence Committee, Mr Balfour's pet device for the higher control of all aspects of defence. Lord Esher henceforward regarded himself as a permanent member of that body, and Sir G. Clarke served as its Secretary with utility and distinction. A special salute for the Duke of Connaught was refused by the Secretary of State, eliciting from the king the pungent if unfair comment: "No go. The Secretary of State for War is as obstinate as a mule." The king also had a good memory, and his subsequent relations with the minister were probably not unaffected by this failure to meet his wishes.

The episode was unfortunate, for the king now began to exhibit a most remarkable activity in regard to the proposals for decentralisation which ultimately were issued in an Army Order in January 1905. He insisted on early communication of draft proposals, citing the rules of his mother's reign, and was strongly opposed to Treasury control of the administration and discipline of the Army. His minister would not agree to meet his wishes for the reduction of the age of admission of subalterns to the Guards to 18½ in lieu of 19, on the sound ground that it would bar entry through Sandhurst, but the king's acquiescence was sulky. He objected also to the experiment of an *Army Journal*, disapproving of officers not retired or beyond the likelihood of employment expressing views, and though the journal was started it did not long survive. On uniforms he was firm, and realised the value for recruiting purposes of ornament despite the uses of economy. Most interesting is his sense of history; he successfully restored to the Duke of Cornwall's Light Infantry the right to wear a red

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pagri with the foreign service white helmet in order to perpetuate the memory of the distinctive red tuft awarded to its predecessor, the 46th Regiment, for gallantry in the field in 1777. On the necessity of maintaining the strength of the garrison in South Africa the king had strong views. He repeated them to the Liberal government in 1906, and it was with great dissatisfaction that he had to acquiesce in 1908 in the weakening of the forces.<sup>1</sup>

On one matter he was adamant, and the Secretary of State by maladroitness played into his hands. Changes in the Pay Warrant were submitted informally by Mr Loring, Private Secretary at the War Office, instead of in normal ministerial form, and the king, who objected to the risk of serving officers suffering loss through the change, saw the tactical advantage, and through his Prime Minister effectively rebuked the peccant minister. Moreover, he used the moral ascendancy thus established to adhere to his objections of substance and signed the warrant only when he had satisfied himself that there was no real risk of hardship to any officer.

But real reform was not effected under Mr Arnold-Forster, though he made a beginning in dealing with the defects of the situation, the absence of an expeditionary force or an effective home defence army. It was left to Mr Haldane to work out the scheme which provided an expeditionary force of 160,000 men in place of the bare 60,000 available in 1899, and for a territorial army. On the latter the influence of the king was whole-hearted ; in two months alone in

<sup>1</sup> Lee, *Edward VII*, ii. 484 n. 1. Ragging in the Guards caused trouble in 1907 (*Journals and Letters of Viscount Esher*, ii. 267).

1909 he presented colours to no less than 130 battalions of the Territorial Force. He supported the ministerial scheme of reforms whole-heartedly ; as Mr Haldane admitted, " there was no minister who had had greater cause to be grateful to his sovereign than himself." He urged him to stick to office in 1908 amid the depression caused by the necessary reductions in army expenditure to leave funds for the navy, and, though his own brother was the culprit, he resented severely his refusal to remain in the useless office of Commander-in-Chief in the Mediterranean after 1909. After criticisms of the scheme of reorganisation began, the king shared some of the objections, and his support of Lord Roberts' strictures sometimes evoked petulance from his minister, but the royal intervention was plainly well considered.

The king had a just sense of the necessity of maintaining discipline, and this led him in 1901 to have to perform the painful task of approving the decision to remove Sir R. Buller from the command of the First Army Corps at Aldershot, to which, contrary to public disapproval of his command in Natal, he had been appointed on returning from South Africa. Sir R. Buller had unfortunately replied publicly to the criticisms addressed against his apparent intention of evacuating Ladysmith, and the Secretary of State, the Prime Minister, and Mr Balfour were united in determining that he must resign or be removed from his command as a penalty for this flagrant breach of regulations. He exercised his right to appeal to the king, who was also an old friend, but the king without hesitation approved his removal.

Naturally the king was interested in the career of



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his friends in the Army and in the filling of the great posts. He was opposed to the sending of Lord Kitchener to India, but yielded to ministerial urging and the argument that otherwise he would leave the Army. His friendship for Sir T. Kelly Kenny led him to secure his appointment as Adjutant-General and to his steady opposition to efforts to reduce his status so as to emphasise his subordination to the Commander-in-Chief or to induce him to leave the War Office. But he disappeared in the great reorganisation of 1904, though he continued to offer opinions to the king on matters military. It is interesting to note that the king early recognised the capacity of Major Douglas Haig, for whom he secured in 1906 employment at the War Office.

Though the king had hesitated regarding Lord Kitchener's original appointment to India he was soon convinced of the soundness of his reforms, and for this reason no doubt supported him in the contest with Lord Curzon which ended in the great proconsul's resignation. He also approved the grant to him of an extension of office for two years. But even more signal was his consideration in regard to the useless office of Commander-in-Chief in the Mediterranean which Lord Kitchener was forced by royal pressure, very reluctantly, to accept. When he saw the king on April 28, 1910, just before his death, the king presented him with the baton of a Field Marshal and after hearing his reasons relieved him from his promise to accept the command. Instead he worked hard to secure for him appointment as Governor-General, but found Lord Morley adamant,<sup>1</sup> and by a curious

<sup>1</sup> Lord Esher was offered the office (*Journals and Letters*, ii. 448, 449).

lack of taste the occasion of the royal funeral was chosen by Lord Morley to intimate to Sir C. Hardinge his selection for the post. His tenure was fated to be marked out by the ghastly mismanagement of the Mesopotamian campaign, which resulted in the passing on him, on the Commander-in-Chief, and on certain others severe censures by the Royal Commission which investigated perhaps the most deplorable episode in Indian war history.<sup>1</sup>

In naval issues the king naturally took special interest, for the growth of the German navy, in view of the hostility of Germany, was an outstanding feature of his reign. His adviser in these matters was Sir John Fisher, an officer whose influence on British policy may be judged very differently from various points of view. The regularisation of his relations with the king was effected in 1904 by appointing him first naval aide-de-camp, which gave him personal access to the sovereign, to whom, therefore, he could unburden himself on naval and other topics at great length.

Sir J. Fisher was responsible for inducing the Conservative government to consent to the construction of the first *Dreadnought*, launched in 1906. Germany, irritated by the failure of the Algeciras Conference, had thus the necessary incentive to start its new naval programme and to enter on a course which could only end in war. Sir J. Fisher's policy of concentration denuded the seas of British war vessels and induced another friend of the king's, Sir C. Hardinge,<sup>2</sup>

<sup>1</sup> Lloyd George, *War Memoirs*, ii. 802-31; Robertson, *Soldiers and Statesmen*, ii. 19-65.

<sup>2</sup> Lee, *Edward VII*, ii. 332, 333.

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to protest against the weakening of British influence overseas, but the king's support was still forthcoming for the Admiral, who was able with his backing to persevere with his policy of constructing *Dreadnoughts* and concentration of forces, while reducing the Channel fleet to dimensions which brought serious attacks on the ministry. The king and a sub-committee of the Committee of Imperial Defence finally decided in favour of Sir J. Fisher in his heated controversy of 1908-9 with Lord Charles Beresford.<sup>1</sup> But it must be admitted that, whatever the merits of Sir J. Fisher, he was in many ways a dangerous adviser. Long before Algeciras the Kaiser was able to say with truth that Sir J. Fisher was anxious to have a struggle with Germany before the latter could strengthen her fleet,<sup>2</sup> and he actually had the incredible folly to propose an attack without warning on Germany, while during the great war he conceived fantastic plans of landing forces in Germany, which prevented him from concentrating on really practical schemes.

### 3. *George V and National Defence*

The king was confronted on his accession with the clear evidence of the German danger, and with the necessity of seeking to avert the catastrophe by efforts to secure appeasement with Germany. The attack on Turkey by Italy further aggravated the position by leading to the Balkan wars, and to the appearance of Italy as a rival Mediterranean power, rendering a closer naval understanding necessary with France in 1912, so that Britain might be free to

<sup>1</sup> Lee, *op. cit.*, ii. 598-603.

<sup>2</sup> Lee, ii. 360.

continue the concentration of forces to counter a German attack. At the same time the growing bitterness of the conflict between Conservatives and Liberals over the Irish question menaced the possibility of civil war, and the loyalty of the forces of the Crown was directly called into question by the incident at the Curragh already referred to, when officers were found to be resigning rather than face the possibility of being employed to deal with unrest in Ulster, while the government had permitted the creation of two bodies of Volunteers, which were virtually private armies ready to engage in civil war. The situation was saved only by the action of the Prime Minister, who received the authority of the king to undertake also the duties of Secretary of State for War, for which Col. Seely had proved inadequate, and who restored discipline by laying down the fundamental principle that soldiers may not enquire beforehand the nature of the work on which they were to be employed.<sup>1</sup> It may be feared that the episode went far to justify the belief in Germany that the British government would be incapable of decisive action owing to the imminence of civil war. While, however, all allowances should be made for official blundering in the matter and for the failure of Col. Seely at a crisis, the fact remains that officers failed to remember their first duty to their country and placed political party before their fidelity to the king. It was a deplorable precedent, and the king was fated to see another, and in some ways not less serious, dereliction of duty when in 1931 at Invergordon<sup>2</sup> the sailors

<sup>1</sup> Oxford, *Fifty Years of Parliament*, ii. 149-53 ; see chap. vii. § 5.

<sup>2</sup> King-Hall, *Our Own Times*, i. 416, 417, 421.

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mutinied because of nothing more serious than cuts in pay inadequately explained by their officers. In that case the departure of Britain from the gold standard was the immediate outcome, and it may be doubted if the concessions then made to the sailors could not have been obtained by them without so grave a breach of duty. They protested, it is true, their loyalty to the king, but they failed lamentably to realise that their loyalty should have led them to put their faith in the sovereign to secure a remedy for any just grievances. Unhappily the example of disobedience set at the Curragh had undermined loyalty. Far more venial was the disloyalty displayed at the close of 1918 and the beginning of 1919 over the impossible scheme of demobilisation accepted by the War Cabinet, and the remedy applied by Mr Churchill was immediately appreciated and complete order restored.<sup>1</sup>

The king and Queen Mary during the war identified themselves whole-heartedly with the fate of the forces, and not only were visits paid to the British and allied armies overseas, but innumerable military detachments and hospitals at home were inspected and the Grand Fleet at Scapa visited. Of special value was the activity of the king in encouraging munition workers to realise that they had a plain duty to the men at the front, and that they were bound to lay aside restrictions on output when their fellow workers were risking life for poor pay. For this purpose he repeatedly addressed the workers at munition factories, and thus brought home to many the real character of their work. Very striking was his decision in March 1915, for the sake of example to

<sup>1</sup> Churchill, *The World Crisis*, v. 52-65.

munition workers and others, to abandon during the war the use of alcoholic liquor both for himself and for the royal household. Unluckily, though Lord Kitchener among others followed his example, the House of Commons declined to consent to this act of self-sacrifice, and thus some of the value of an unselfish gesture was lost.<sup>1</sup>

On military issues the king was regularly in close touch with ministers. Lord Oxford<sup>2</sup> records a four hours' discussion—reminiscent of older times—between himself, the king, Lord Kitchener, Mr. Balfour and Sir Edward Grey on the problem of compulsory service which the king approved, and he gave his deliberate sanction to the replacement of Sir J. French by Sir Douglas Haig in the command in France.

The post-war years brought difficult problems of reduction of forces, in the vain hope of disarmament on a substantial scale among the peoples of Europe, and it was naturally painful for the king to consent to the successive steps of retrenchment, especially in the Navy, affecting the careers of competent and keen officers. But he realised fully the motives of ministers, even in the Labour governments of 1924 and 1929, and he lived long enough to see better prospects opening out for members of the services in which he was so much interested. The formal creation of a distinct Air Force in 1917-18 gave him in respect of it the same powers as he already enjoyed by statute in respect of the Army, and the controversies over the several parts to be played in defence by the Air Force, Army and Navy increased the complexity of defence issues submitted, and doubtless his

<sup>1</sup> Lloyd George, *War Memoirs*, i. 317-22, 328-30.

<sup>2</sup> *Memoirs and Reflections*, ii. 109, 114 ff.

Chapter long naval experience helped to maintain the claims  
 XI of the Navy against the pretensions of the newer arm.

The limitations on royal action were shown with special clearness during the great war. The ministries of the king were in effect definitely determined upon by Parliament, and it would clearly have involved serious danger for the king to have endeavoured to make his opinion prevail, even had he felt doubtful of the wisdom of the decisions of his Prime Minister. The fatal decision of Mr Lloyd George<sup>1</sup> to refuse the Commander-in-Chief the necessary reinforcements, despite the support of the Chief of Staff and Mr Churchill, unquestionably led to the appalling reverses of the forty days from March 21, 1918, when the British Army suffered the almost incredible amount of 300,000 men killed, wounded or prisoners. But for the king to overrule his Prime Minister before the disaster or to displace him after it would have been wholly impossible. However badly the country had been served, the Prime Minister had been given his power to do almost irreparable injury by the House of Commons, and an alternative ministry was impossible at that juncture, while an appeal to the electorate was even more out of the question. Or to put it another way, the authority that remains to the king is the right to secure that the will of the electorate prevails, and, where that cannot be consulted, the one duty of the Crown is to afford all support and confidence to the ministry of the day.

<sup>1</sup> Churchill, *The World Crisis*, 1916-1918, pp. 375 ff. ; Mallet, *Lloyd George*, pp. 121-30 ; Sir W. Robertson, *Soldiers and Statesmen*, i. 296 ff. ; Spender, *Life of Lord Oxford*, ii. 299-309. Lloyd George's own apologia (*War Memoirs*, v.) can hardly have convinced even its author.

## CHAPTER XII

### THE PREROGATIVES OF JUSTICE AND MERCY

#### 1. *The Crown as the Fountain of Justice*

THE rendering of justice is one of the earliest and most important of royal functions, and it plays a great part in constitutional history. The setting up of royal courts displaced the remains of popular justice, and rendered possible the creation by the judges of the common law which replaced the mass of contending local systems. The control of the judges and the power of judging by means of the Council were invaluable to the Stuarts as the means by which they maintained their prerogatives and secured decisions in favour of their powers to tax, and to grant dispensations from the rules laid down by statute, as well as to issue proclamations with the force of law. But the revolutionary settlement completed the work of the Long Parliament. James I had already been told by Coke that he might not sit as a judge in his own courts ; the Long Parliament took away the power to judge causes in the Council or the Star Chamber, and under the Act of Settlement, 1701, the security of judicial tenure was established. The king may only remove a judge, except in the case of gross misconduct, on addresses from both Houses

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of Parliament, and the probability of such action being required may be dismissed as negligible.<sup>1</sup>

The Crown still retains the power of appointing judges, for which purpose letters patent are employed. But the nomination of judges rests with independent authorities. It is recognised that the Lord Chancellor has the right to nominate the puisne justices of the High Court, while the Prime Minister accepts responsibility as regards the other justices, the Lords Justices of Appeal, and the Lords of Appeal in Ordinary,<sup>2</sup> who sit with life peerages in the House of Lords and constitute the highest court of appeal for the courts of England, Scotland, and Northern Ireland. No doubt, especially in the case of Lords of Appeal, the sovereign may have opinions and may urge them, but the sphere is plainly one in which there is little room for the Crown to possess decisive weight.<sup>3</sup>

From the oversea courts of the Dominions, colonies, protectorates, and countries where the king exercises extraterritorial jurisdiction, appeals lie to the King in Council. This is a very old prerogative of the Crown, dating from the days when appeals were brought to the king in his Parliament; the intermission of Parliaments under the Tudors resulted in the bringing of the appeals to the King in Council, since that body was always available to undo wrongs. But since 1833 these appeals, as well as appeals from

<sup>1</sup> A motion for removal of an Irish judge, Mr Keogh, failed in 1872 (*Letters*, ser. 2, ii. 226).

<sup>2</sup> See *Letters*, ser. 3, ii. 6, 7. For Lord Parmoor's case, see Fitzroy, *Memoirs*, ii. 532. For the Lord Chancellor's intervention to exclude Sir Lawson Walton from becoming a Lord Justice of Appeal in 1907, see Fitzroy, *Memoirs*, i. 315.

<sup>3</sup> The King still pricks the sheriffs, but they are selected beforehand (Fitzroy, *ibid.* i. 48); for the bodkin, see ii. 777.

the ecclesiastical courts in England and from all prize courts, are held before the Judicial Committee of the Privy Council, which is so constituted by statute that it is a court of special qualification to deal with oversea causes ; on it sit judges of Indian experience, and Dominion and other colonial judges may sit. The only essential points which preserve the fact that the King in Council is the authority to decide, are that the judgment must be unanimous, for it is a rule dating from 1627 and since affirmed that there must be only one final utterance of Council, and dissents, therefore, are not made known ; and, secondly, that effect is given to the report of the Committee by a formal Order in Council. But the king in these matters has no discretion whatever. It is contrary to the genius of the British system of responsible government that any minister should be responsible for judicial decisions, and so the Order rests on the recommendation of the Committee, and their responsibility is that of judges, not of politicians.

Though justice is administered in the name of the Crown but few of the instruments used require the royal signature. Writs normally go out under the seal of the court concerned. The Crown has law officers, the Attorney-General and the Solicitor-General, to represent it in the courts in matters affecting the king's interests or the public interests of the Crown or of the people. Criminal proceedings are brought in the name of the Crown, though in England, unlike Scotland, they are regularly brought at the instance of private persons. But in all cases the Crown may enter a *nolle prosequi*, which brings a

prosecution, by whomever instigated, to an end.<sup>1</sup> The power is obviously a dangerous one; it may be used to prevent due punishment of crime, and in 1924 the fall of the Labour government was brought about by the allegation that for political reasons it had withdrawn from prosecuting in a case of sedition. But these matters lie outside the sphere of personal intervention by the king. Instructions from the law officers to the officer charged with the conduct of public prosecutions do not fall within the sphere in which personal assent even formal is requisite.

## 2. *The Immunities of the Crown and its Servants*

In litigation<sup>2</sup> the Crown possesses certain procedural advantages over the subject, but of much more importance is the fact that for many purposes it stands above the law. That does not mean that the king is not bound by law, still less that he cannot be bound, but that as sovereign the law which he enacts with his Parliament or the common law does not apply to him rules which it imposes on subjects. Such rules often are obviously the products of common sense. Thus the king cannot be arrested, and arrests may not be effected in his presence, nor can judicial process be executed within the verge of a royal palace, all prescriptions based on the necessity of avoiding a breach of the peace and danger to the king; the verge of the Palace of Westminster was held to run from Charing Cross to Westminster Hall. The king is held incompetent to give evidence in cases of felony or treason in his courts; hence it may be necessary,

<sup>1</sup> Ridges, *Constitutional Law of England* (ed. Keith), p. 154.

<sup>2</sup> Anson, *The Crown* (ed. Keith), ii. 330-9.

as in a recent case, to prove by the evidence of third parties facts specially within royal knowledge. The king's goods may not be taken in execution, nor distraint be levied on his land; Crown chattels on the lands of a third party may not be seized in execution or under a distress. The king is not bound by statute unless expressly mentioned therein, or unless it is necessarily implied that the statute binds the Crown. These rules apply to the king equally in his personal capacity and as the Crown. Hence, if the king were to commit a crime, the action would be criminal, but he could not be tried for it by any court in his realms. His position may be elucidated by that of an ambassador; he, like the king, is immune from speed regulations when he motors, but the breach of such regulations is none the less a violation of law, though no court can punish the infraction.

Special principles apply to the contracts of the Crown. The king must be able to rid himself forthwith of an unprofitable servant; hence he cannot deprive himself of his right to dismiss any servant of the Crown, civil or defence, unless the power so to do is expressly limited by statute. The tenure, therefore, of all but a small number of servants is technically precarious; in practice it is regulated by the convention that removal should take place only on the most substantial grounds. In any case a dismissed officer may exercise the right to petition the king, and the petition must be submitted to the sovereign with the recommendation of the ministry concerned; in the defence services the matter is specially regulated under statutory authority.

All contracts by the Crown involving the expendi-

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ture of public money are subject to the constitutional rule that Parliament must find the money, if it is to be possible to obtain the payment stipulated. Otherwise it would be possible for the Crown to evade Parliamentary control by stipulating for payment and so compelling Parliament to find the funds.

Claims against the Crown in contract can be brought only under the procedure of petition of right, now regulated by statute. The procedure requires as a preliminary the grant of a fiat by the king on the recommendation of the Home Secretary, who consults the Attorney-General. The fiat might, therefore, be withheld arbitrarily, but by convention it is granted in any case where there is any possibility of doubt in favour of the petitioner's claim. The same procedure is also available in the case where it is alleged that any goods or lands are wrongfully in the hands of the Crown, and more recently it has been permitted to enforce rights to compensation conferred by statute or under the rules of international law. In some cases relief against the Crown has been obtained in the form of a suit against the Attorney-General for a declaration of right, but it seems clear that such proceedings are not legitimate in any case where petition of right lies. A simple procedure is provided for causes affecting the king's private estates.

As the king can do no wrong, no proceedings in tort can be brought against the king's servants as representing the Crown. Their wrongful actions must be presumed to be departures from the royal orders, and they must be held personally liable. Of course this does not prevent the Crown, on being satisfied that the servants acted *bona fide* in the

public interest, paying for their defence in the courts or defraying the costs awarded against them if unsuccessful. The rule is open to criticism on various grounds; it is held to be unjust that a direct action cannot be brought against the Crown ensuring due compensation to the person injured, and that it is unfair that an officer who has acted in good faith should still be under the necessity of appearing as a suppliant to the Crown to be indemnified for action done in its service. In fact, in oversea Dominions and some colonies suit does lie direct, but efforts to enact this in the United Kingdom have failed; in Scotland, however, direct suit in tort, as also in contract, is allowed. In a few cases government departments have been held or made by statute, as in the case of the Ministry of Transport in 1919, subject to suit in the ordinary way. But normally a government department or its head is in the same position as an individual officer.

Criminal actions by officers are in like position to torts. It is no defence to plead state necessity, or the orders of a superior, or of the Crown itself. The rule is evidently very hard in the case of subordinates in the defence services, and there is authority for saying that obedience to an order of an officer, not on the face of it illegal, is sufficient to excuse acts otherwise criminal or tortious, but the order must not be palpably illegal, for otherwise a soldier could excuse the shooting of a senior officer at the command of a junior. In a limited number of cases the plea of Act of State<sup>1</sup> in a technical sense can be urged. The cases include acts done to aliens on royal authority

<sup>1</sup> Anson, *The Crown* (ed. Keith), i. 318-20.

or ratified later by the Crown outside the realm, and acts connected with the taking possession by sovereign authority of foreign territory, as when an Indian principality is absorbed. In such cases the issue of approval would normally fall to be submitted for royal assent.

Officers of the Crown when they contract are recognised as contracting for it, not for themselves, unless they take steps to make themselves personally liable, and so are immune from suit. Moreover officers are all employed by the Crown, and are not liable for the torts of subordinates, save to the extent to which they definitely authorised or procured the execution of the tort complained of. Public officers in general have procedural advantages, for as a rule proceedings arising from their acts must be brought within six months.

Judicial officers have special immunities. The judges of the Supreme Court are immune from liability for all acts, even if malicious, performed within the limits of their jurisdiction, and even for acts outside that jurisdiction unless they knew or had means of knowing that they had not jurisdiction. The immunity of inferior judges is less extensive.<sup>1</sup>

In general Crown debts rank before all other debts, unless the privilege has, as often, been deliberately restricted by statute, as in the important cases of bankruptcy, and the winding-up of companies.

### 3. *The Prerogative of Mercy*

The Crown has the right to pardon crimes because they are done against the peace of the Crown. Further

<sup>1</sup> Ridges, *Constitutional Law of England* (ed. Keith), p. 34.

power has been given by statute to remit penalties even when part or the whole thereof is payable to an informer, as is the case under the Sunday Observance Act, 1780. The putting into operation of the powers given by that Act in recent times has led to a revival of petitions for remission in suitable cases.

The importance of the power lies in the authority thus available to prevent undue severity in the operation of the law, which, made in general, cannot give full effect to the special circumstances which may render a lenient treatment of a criminal justified. It is not sufficient as a rule to rely on the discretion of the court in awarding sentence, for the circumstances of a trial render it difficult for the court to have sufficient knowledge or time to deal with each case. Moreover there may be many circumstances which are not brought to light at the time and may yet be relevant in the consideration whether a sentence should be remitted or reduced. Since the creation of the Court of Criminal Appeal in 1907, as the result of the ghastly miscarriage of justice in the case of Adolf Beck which the Home Office failed to detect despite full investigation, the function of the Home Secretary is less directed to considering possible cases of mistakes. If no appeal has been taken, the Home Secretary may refer to the Court for its opinion. In the main, therefore, the point to be considered, whether on the recommendation of the judge or jury or on petition by the prisoner or his friends, is the question of remission of sentence. Only in capital cases is the decision one of special burden on the Home Secretary, for by custom he cannot in regard to them



Chapter merely accept without personal investigation the  
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In regard to such cases the position of the Crown has been made simple. Prior to the accession of Queen Victoria<sup>1</sup> it was the practice to consider in Cabinet with the king present—a curious survival of a usage otherwise obsolete—the death sentences passed in the metropolitan jurisdictions which came to be centralised as the Central Criminal Court at the Old Bailey, but this practice was dropped very properly on the accession of the young Queen. The rule now is that the full responsibility for all pardons rests on the Home Secretary and that his decision is acted upon whenever it is given, though the formal pardon has still to be signed by the king. Prior to 1827 pardons were conferred by letters patent, but a sign manual warrant now suffices.

The reference for signature to the king naturally brings the grant under the personal knowledge of the Crown, but royal intervention is not constitutional. It is, of course, within the right of the sovereign to comment; Queen Victoria had decided views on the grant of too many commutations of death sentences to men who murdered their wives, and was doubtful in Mrs Maybrick's case in 1889. Edward VII was no less decided in his views. The Edalji case which aroused much interest between 1903–6, a young solicitor being found guilty of cattle maiming, while Sir A. Conan Doyle and Mr Labouchere criticised the conduct of the case, was followed by him with interest, and he granted a free pardon on the advice

<sup>1</sup> Anson, *The Crown* (ed. Keith), ii. 296 n. 1. Up to 1872 the Isle of Man retained royal signature (*Letters*, ser. 2, ii. 223).

of Mr Gladstone, while agreeing with the Commission of Enquiry that the accused had brought much of his trouble on himself. On the other hand, while accepting the commutation of the sentence on Rayner, the murderer of Mr Whiteley, he dissented from its wisdom. The dominant factor in the commutation was undoubtedly public sympathy, not perhaps very wise, with the murderer, but the king deprecated yielding to mere agitation engineered by the press, and insisted that action should be based on legal or moral grounds, deprecating also the modern tendency to regard criminals as martyrs. The only criticism possible of this view is that it may do more harm in the long run to offend public sentiment, however foolish, by creating an irresistible demand for the abolition of capital punishment. Better to let some criminals escape their due fate than deprive the country of the deterrent to murder which capital punishment unquestionably provides.

The war of 1899-1902 gave rise to certain cases which interested the king specially.<sup>1</sup> He secured the immediate release of a young New Zealand boy sentenced to death, but later to penal servitude, for sleeping on outpost duty and sent to serve his sentence in England, and he consented in 1907 to the complete removal from Mr Lynch of the disabilities imposed in connection with his conditional pardon for treason committed during the Boer war. The sentence was commuted to penal servitude for life in 1903, but there were extenuating circumstances, and in order to gratify Irish feeling release was accorded as early as 1904. The king, however, properly pointed out the

<sup>1</sup> Lee, *Edward VII*, ii. 40.

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fact that treason was much more than a political crime, and, though Mr Lynch worthily redeemed his past and fought in the army in the Great War, it was felt necessary to refuse a reprieve in the case of Sir Roger Casement in 1916; perhaps the case of Mr Lynch may have obscured in the public mind the gravity of the crime of treason.

There can be no doubt of the necessity of the exclusion of the king from all responsibility. The tendency to sensationalism in the reporting of crime and the ease with which public feeling is swayed would render far more difficult than it is the position if the king could be regarded as making the actual decision. Appeals such as were poured in in the case<sup>1</sup> of the Lord Mayor of Cork when on hunger strike in August 1920, or in the later cases of Bywaters and Mrs Thompson, or of the Rattenbury murder, and the controversy over the case of Ronald True (June 1922), need only be remembered to show how embarrassing would be the position of the king. It would be impossible for him personally to weigh the evidence and proceedings, which the Home Secretary is compelled to do, and Parliament adopts the doctrine that the power of the Home Secretary is exclusive,<sup>2</sup> and refrains from challenging his decisions. In oversea territories the prerogative is delegated to the

<sup>1</sup> *The Times*, August 27 (Mr Lloyd George); August 31 (Mr Balfour).

<sup>2</sup> Thus in the case of Mrs Waddingham, executed in April 1936 for the murder by poisoning of Miss Baguley, who had been in her care, the jury actually commended her to mercy, presumably because she had five young children dependent on her, but Sir John Simon ruled that there were no circumstances to justify commutation of sentence. Clearly the sovereign, if a woman, could not have taken such a decision, though it was doubtless wise and just.

Governor, who in the Dominions acts normally on ministerial advice.<sup>1</sup> Chapter  
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Pardons may be granted either after conviction or before conviction, as in the case of a criminal who is pardoned in order to induce him to give evidence against his confederates, a process sometimes necessary in order to secure sufficient ground for a conviction of a carefully concocted crime. They may be absolute, or conditional; capital sentences are usually commuted to penal servitude for life, which means in practice about 20 years as a maximum to be served. It is for the Home Secretary to decide conditions, and the prisoner has no longer the option of refusal. In one case a pardon may not be pleaded before conviction; the Commons decided in 1679 in Danby's case that such a pardon could not bar impeachment, though of course the power to pardon may be exercised thereafter.

#### 4. *The Crown as Parens Patriae*

Here falls to be noted an ancient characteristic of the Crown. As liege lord and protector of his people the sovereign enjoys the privilege and duty of caring for the persons and estates of infants, idiots, lunatics and insane persons, and of superintending the execution of charities in England, with analogous rights in Scotland as well as in places where the common law of England runs. But this authority has long

<sup>1</sup> Occasionally appeals are received from persons overseas for clemency, but the final decision is always left on principle to the Governor who knows the circumstances (Fitzroy, *Memoirs*, i. 308, 311). For a special reference home as to Fenians from the United States, see *Letters*, ser. 2, i. 373-6.

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ceased to be personal. The protection and care of infants and the appointment and removal of guardians fell early to the control of the Lord Chancellor personally and is now assigned to the Chancery Division of the High Court of Justice.

In regard to idiots the sovereign had the custody of their lands and goods, subject to the obligation of finding them necessities and restoring their property to their heirs. In the case of lunatics his position was less favourable, for he was a mere trustee and could not make out of his control any profit. Long practice demands that the royal powers shall be delegated under the sign manual to the Lord Chancellor, though the Crown might delegate to any other high official. Most matters, however, relating to the confinement of idiots or lunatics and the treatment of their property are now regulated by the Lunacy and Mental Deficiency Acts, which assign administrative functions to Commissioners in Lunacy subject to the general jurisdiction of the judge in lunacy.

As keeper of the king's conscience the Lord Chancellor exercises the privileges of the Crown in matters relating to charity. Administration in these matters is assigned by statute to the Charity Commissioners, and jurisdiction to the Chancery Division of the High Court.

Nothing, therefore, of personal concern is left to the monarch in spheres which once were of special interest to the medieval sovereign, mainly, of course, for the substantial revenues which might be derived in special cases from exercise of these high prerogatives.

## CHAPTER XIII

### THE CROWN AS THE FOUNTAIN OF HONOUR

#### 1. *Royal Ensigns and Flags*

It rests with the Crown by statute to determine the royal arms of the United Kingdom and its dependencies. The power was given on the Union with Scotland in 1707, and again when Ireland was united by the Union with Ireland Act, 1800, and may be exercised by proclamation under that Act. The proclamation of 1801 removed the arms of France from the royal arms, for George III had renounced the use of the title of king of France, and in 1837 the arms of Hanover also vanished on the separation of that kingdom from the United Kingdom. The royal arms, therefore, are now those of England in the first and fourth quarters, those of Scotland in the second, and those of Ireland in the third. But in Scotland, it may be noted, the king approves where desired in the official use of the arms the substitution of the repetition of the arms of Scotland in lieu of those of England, as a concession to the mass of Nationalist feeling among his Scottish subjects. Licence to use the royal arms for any purpose must be granted by the king, as is done in the case of certain holders of royal warrants as suppliers of necessities or luxuries to the sovereign. Use of the arms without licence is a punishable offence.

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The royal standard is the personal property of the king, and its use is proper only where he is actually present. The habit of promiscuous display during processions is wholly wrong, and in Scotland the Lyon King-of-arms might punish the offender, if he were not afraid that such action might create sufficient ill-feeling to secure the destruction of his criminal jurisdiction, for like jurisdiction no longer can be enforced in England by the College of Arms. The standard bears in the first and fourth quarters the leopards passant gardant of England, in the second the lion rampant of Scotland, in the third the Irish harp, a singularly misleading emblem of harmony.

The union flag, or Union Jack, is required to appear in all king's flags on sea or land, and it is the legitimate flag for display by all government departments and private individuals as the national flag. It includes the crosses of St Andrew and St Patrick with that of St George, thus blending the three national if apocryphal saints. It appears in a canton in the upper corner next the staff of the white ensign, which consists otherwise of the cross of St George. The blue ensign and the red ensign are blue and red flags respectively, with the Union Jack similarly displayed. The white ensign is the flag of His Majesty's ships in commission, the blue of other public vessels and of merchant vessels commanded by officers of the Royal Naval Reserve with Admiralty permission, the red ensign is the flag of the mercantile marine and other British vessels. Apart from special privileges conferred, *e.g.* on yachts, by the Admiralty, the use of flags otherwise than as provided in the Merchant Shipping Act is illegal. For the Dominions and

colonies the use of flags modified by the insertion of the badge ascribed to each territory is permitted for use at sea.<sup>1</sup> The Union of South Africa uses a special flag including the Union Jack and the old arms of the Dutch Republics, as well as the Union Jack on land and sea, and New Zealand and Newfoundland use the sea flag as the national flag on land also.<sup>2</sup> Only in the Irish Free State has a distinct national flag which ignores the Union Jack been adopted for use on land, while the ordinary naval flag is still used at sea, pending legislation. The use of the white ensign is permitted to the naval forces of Australia and New Zealand and of Canada, so far as the latter may exist.

## 2. *Titles of Honour and Precedence*

The king is the fountain of honour and of precedence by common law, and this right is reinforced as to precedence by a statute of Henry VIII of 1539. His authority in this regard extends throughout his Dominions. It may, of course, be limited by statute, as is occasionally the case, but normally the matter is wholly left to royal action. Tables of precedence for the Dominions are submitted for his approval as a matter of course and varied by his authority from time to time. In the colonies, save where special provision already exists by local enactment, royal charter, instructions under the sign manual and signet, or from the Secretary of State, or by authoritative usage, the situation is governed by the Colonial

<sup>1</sup> Cf. *Colonial Regulations*, ss. 124-30.

<sup>2</sup> Keith, *Constitutional Law of the British Dominions*, pp. 124-6, 450, 451.



Regulations. The rule is that precedence which in the United Kingdom is enjoyed by virtue of birth or of an honour conferred by the Crown is not lost by temporary or permanent residence in a colony, but that does not apply to the wives of officials, civil or defence, who take rank of their husbands. This is a precaution necessitated by hard experience of the social squabbles caused by the claims to precedence of aristocratic wives of officials of minor rank.

The general rule is that royal personages rank immediately after the Governor, but that may on occasion be varied, especially if a royal prince is sent to the oversea Dominions on a tour to represent the king. Thus, when the Duke of Connaught visited South Africa, the king ruled that, as Lord Selborne had rank only as a Governor, he should rank after him. The question of the precedence of Indian princes was raised in 1908, but great difficulties were found to exist, since they are not royalties but quasi-subjects.<sup>1</sup>

Of honours the most important, peerages, naturally demand special consideration from the sovereign. Peerages are now normally created by letters patent, but many older peerages depend on writs of summons, for according to peerage law the receipt of such a writ and action under it constitutes a ground for claiming a hereditary peerage. The ranks conferred are Duke, Marquis, Earl, Viscount and Baron in the peerage of the United Kingdom. There are also Irish peers, but the power to create such peerages was

<sup>1</sup> *Journals and Letters of Viscount Esher*, ii. 347-9, 353. The precedence of the Cesarewitch in India in 1890 raised trouble (*Letters*, ser. 3, i. 665, ii. 7, 8).

limited by the Union with Ireland Act, 1800, so as to provide that only one new peerage could be created for each three peerages which became extinct, unless the number of Irish peers without hereditary seats in the Lords fell below one hundred. But it is uncertain whether the creation of Irish peerages is probable, since the machinery under which the Irish peers elected twenty-eight of their number to sit in the Lords for life has been destroyed by the abolition of the office of Lord Chancellor of Ireland and the election of peers has been allowed to terminate. In the case of Scotland the legal power to create new Scottish peerages is disputed, for the Union with Scotland Act, 1707, leaves it uncertain whether it is meant to exclude further creations. The issue in any case is not very important, because the disadvantages of a Scottish peerage only render it not an object of desire. On the other hand, an Irish peer might sit in the House of Commons.

The descent of peerages may be provided specially by the king, thus being useful to provide for cases such as those of Lord Strathcona or the Earl Balfour, where there is no male heir, and it is desired to secure the maintenance of the peerage. But such creations were not popular with either Edward VII or the late king, who deprecated suggestions to this end being made. It is impossible to create a life peerage which will allow its holder to sit in the House of Lords except in pursuance of express statutory provision such as has been made in the case of the Lords of Appeal in Ordinary who constitute the final court of appeal. A peerage which by descent falls to females of equal right, there being no priority by age among females

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in this regard, goes into abeyance, unless and until the king chooses to award it to one of those jointly entitled. A peerage may be conferred on a wife during the life of her husband, though that is rare. Mr Disraeli in 1868 successfully moved the Queen to bestow on his wife a viscounty on the ground that owing to her age it could not be expected that she would survive until the time when he himself might naturally accept a peerage.

Claims for disputed peerages are addressed to the king, who normally refers the issue to a Committee of Privileges of the House of Lords, which, however, has no original jurisdiction of its own. The Committee is not a court, and is not bound strictly by earlier findings. It can render decisions partly on political rather than strictly legal grounds, as when Lord Birkenhead induced it to deny the right of Lady Rhondda as a peeress in her own right to sit in the House of Lords, though most legal authorities were content to admit her claim.<sup>1</sup>

Other honours are of less importance, as they do not involve membership of the legislature. Baronetcies are conferred by letters patent, knighthoods by corporeal investiture, as also are memberships of the lower ranks of the Orders of Knighthood. The great orders are those of the Garter, Thistle and St Patrick, which are largely exempt from considerations of merit; those of the Bath, St Michael and St George, Star of India, Indian Empire, British Empire,<sup>2</sup> and the Imperial Service Order serve to reward public service whether civil, military, naval or air force.

<sup>1</sup> [1922] 2 A. C. 339.

<sup>2</sup> Queen Mary became Grand Master in 1936 as a marked honour.

For the judges and sheriffs of London and for various kinds of useful service knighthoods are available, while the Lord Mayor of London is made a baronet, as is also on occasion the Lord Provost of Edinburgh.

The general rules of ministerial responsibility apply to every class of honour. The Prime Minister bears the general responsibility, and on him depend the rewards given for eminence in art, science and literature, and for political services. All honours proposed for the civil service are dealt with by him with the advice of the Permanent Secretary to the Treasury, so that a fair allocation as between the various branches of the service may be maintained. The defence departments, the India Office, the Colonial Office, which controls the St Michael and St George, and the Foreign Office have the direct<sup>1</sup> right of submission to the king in respect of services rendered under them. But, if baronetcies or knighthoods are concerned, their lists go to the Prime Minister. Even honours desired for the royal family or household, if they fall within the classes mentioned, must be recommended by the Prime Minister.

There are two exceptions to the rule of ministerial responsibility. The Royal Victorian Order was instituted to provide the sovereign with an order which could be bestowed at his pleasure, and, though suggestions may be made by ministers where services have been rendered by public servants to the Crown, the king decides. The Order of Merit created in 1902 Edward VII regarded as a personal business, though the Prime Minister might put forward suggestions, and the Order therefore has proved acceptable to great

<sup>1</sup> Lord Beaconsfield proposed to cut this off (*Letters*, ser. 2, ii. 635).

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writers like Thomas Hardy, who would not have welcomed ordinary honours. The Companionship of Honour seems to be more of an ordinary distinction, and has been given to miscellaneous recipients of varying degrees of distinction.

In regard to honours the position of the king is naturally rather different from the attitude which he adopts to ordinary recommendations of ministers. The belief that honours proceed from the Crown renders it invidious to propose or press an honour which would cast discredit on the Crown. Moreover, the sovereign is naturally eager to reward good service. Queen Victoria, as was natural, had high views of her powers in this regard, and pressed with the utmost determination for the grant of the Garter to Lord Lansdowne in respect of his services as Governor-General of India. She had support for her view in Lord Kimberley, but Mr Gladstone was adverse, as were most of the members of the Cabinet, for Lord Lansdowne's policy had not wholly met with their approval. The Queen protested that it was a prerogative matter on which the Cabinet could not properly be consulted, but to this Mr Gladstone properly demurred on the score that an honour for public services fell properly within the wide range of Cabinet business, though in fact in deference to the Queen he had not taken a Cabinet decision.<sup>1</sup> He also offered an extraordinary G.C.B., pointing out that after more than a quarter of a century of public life, and after serving in the office of Chancellor of the Exchequer, he had not resented the offer of an ordinary G.C.B. Yet he finally agreed to let Lord Lansdowne

<sup>1</sup> *Letters*, ser. 3, ii. 345 ff.

have the first vacant Garter. The Queen, with incredible lack of common sense, in accepting this concession, wrote: "The Queen cannot for a moment understand or agree that political party services can be considered to be equal to great political services to the Queen and country." In effect the mediocre services of the Viceroy under the control of the India Office were superior to those of a minister of Mr Gladstone's experience. Contemporaneously she was troubled by the importunity of William II, who had been made an Admiral of the Fleet, for a military honour. She did not like the proposal at all, but ultimately he was made Colonel-in-chief of the 1st Royals, to his great delight.

Edward VII naturally felt keen interest in honours, but his effort to induce his Prime Minister to do with less than sixteen peerages in six months failed, and he even accepted the peerage of Lord Pirrie, whose unpopularity was seen when the king consented later to give him the Order of St Patrick, as the other knights declined to take part in his investiture, and the king, with a clear expression of disapproval of the recommendation, ordered his private investiture.<sup>1</sup> He was critical also of the immediate grant of a viscounty and the Governor-Generalship of the Union of South Africa to Mr H. Gladstone. Much more justified was his amusement at being compelled, in order to gratify New Zealand democracy, to give a peerage to Sir J. D. Poynder on appointment as Governor-General. He failed to induce either Mr Balfour or Sir H. Campbell-Bannerman to give Lord Curzon the earldom he sought in order to enter the House of Lords. On the

<sup>1</sup> Lee, *Edward VII*, ii. 451, 452.

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subject of the bestowal of the Garter his views were discriminating. He gave it only with great reluctance to the Shah of Persia, because it had been promised by his government without his sanction, and refused it to the king of Siam, while according it readily to the Emperor of Japan. Sir E. Grey agreed cordially in the normal objection to give that particular order to a person not being a Christian.<sup>1</sup> In some matters he was meticulous ; thus he opposed the grant of a K.C.B. to Mr Ray Lankester because he had never had the C.B. and had been removed from his post in the Natural History Museum, but readily waived his objection on learning that the offer had been made. On the other hand, he was ready to make suggestions of personal acquaintances and friends. He was quite different in his views on these subjects from his mother, who refused a peerage in 1891 to Leighton, giving it only on the eve of his death in 1896,<sup>2</sup> though she granted that of Lord Kelvin, largely no doubt because he was pressed on her as a leader in the decidedly weak Conservative party of Scotland. The king would have seen knighthoods given to Abbey and Sargent as well as Herkomer and Orchardson, but the former were ruled out as American citizens. He was always mindful of public servants, and fought hard to secure the K.C.I.E. for Col. Younghusband's services in Tibet.

Both under the queen and the king the grant of the Privy Councillorship as a mere mark of honour, as in the case of Max Müller, was comparatively rare.

<sup>1</sup> *Letters*, ser. 3, ii. 530. So Lord Salisbury (561, 562), but inconsistently. The Sultan of Turkey received it in 1867 (*ibid.*, ser. 2, i. 446).

<sup>2</sup> *Letters*, ser. 3, ii. 85, 86.

The Queen refused it to Mr Watts in 1897, when eleven Colonial Premiers were admitted as a Jubilee honour. Chapter  
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Under George V the position as to honours was rendered decidedly difficult by the war. The number of people who rendered good service was great; the government held it best simply to please as widely as possible. In 1917 the Order of the British Empire was created, and decorations were lavished with rather serious results in depreciating their value. But from this there developed a most unfortunate state of affairs, for the greed for honours grew, and the easy method of filling the party coffers of the leader of the coalition was found to lie in the grant of honours to persons making contributions to the party funds. The appearance in honours lists of the names of persons who had rendered no other service to the public than that of subscribing largely to the funds controlled by the Prime Minister evoked grave complaints, and after acrimonious discussions in Parliament and revelations of touting for purchase of honours by go-betweens a royal commission<sup>1</sup> was set up to make recommendations for the future. The result was an admission of the scandal<sup>2</sup> of the sale of honours and efforts to secure less flagrant error in future. The Prime Minister was urged to set up a body of three Privy Councillors, not being members of the government, who should advise him on political honours, the idea being to eliminate grants for monetary considerations; if the Committee were

<sup>1</sup> Parl. Paper, Cmd. 1789.

<sup>2</sup> Mallet, *Lloyd George*, pp. 246-54, gives details; about £1,500,000 was raised.



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opposed to any honour but the Prime Minister persisted, the king was to be informed. But the Commission was opposed to the king's Private Secretary being charged with any duties in the matter. The recommendation has been acted on to the extent of the appointment of the Committee, but how far it has had any effect is not apparent from the records. It is plain that the Commission as a whole was not prepared to negative the propriety of awarding aid to the party, and Mr A. Henderson came to the inevitable conclusion that nothing short of the complete abolition of party honours would suffice.

The Commission recommended also that the practice of offering to procure honours for cash payments and the offering of money to obtain honours should be made criminal. The Honours (Prevention of Abuses) Act, 1925, finally gave tardy effect to this rule, and ultimately one of those engaged in the traffic was brought to book in 1933; investigations into his affairs when bankrupt promised to reveal some of those concerned, but such enquiries were ruled irrelevant by the Court of Appeal, so that publicity was prevented.<sup>1</sup> But the claim for sums paid vainly by a disappointed expectant in the case of *Parkinson v. College of Ambulance*<sup>2</sup> gave conclusive evidence of the mode in which honours had been obtained. What men want they will pay for, and the orgy of post-war honours had lowered the whole tone of public morality.

In the Dominions its effect was even more serious.

<sup>1</sup> *Maundy Gregory, In re; Trustee v. Norton*, [1935] Ch. 65.

<sup>2</sup> [1925] 2 K. B. 1.

The position in their regard is simple. Recommendations are made through the Dominions Office, because the honours in question are not local but imperial, valid in the United Kingdom, and it would be plainly unconstitutional for British honours to be awarded on Dominion recommendations alone. Moreover, there must be due regard to numbers and an allocation made by the Crown. The actual recommendation is made by the Prime Minister of the Dominion, though the Governor-General as representative of the king is certain to be consulted. In Canada, however, the rash creation of two press peerages resulted from 1919 in the Dominion refraining by direction of the House of Commons from recommending for honours, and the practice was only and very unconstitutionally resumed by Mr Bennett, whose overwhelming defeat in the election of 1935 was no doubt not wholly unaided by the resentment felt in the west of Canada for this defiance of the will of Parliament. Honours are clearly unsuited to Canadian conditions, and their restoration would lay open the road to corruption as in the United Kingdom. The Union of South Africa and the Irish Free State make no recommendations for honours, nor do Labour governments in the Australian Commonwealth or the States.

The personal responsibility of the king for honours cannot wholly be ignored, and it is certainly possible to regret that George V allowed himself to be induced by the Prime Minister in 1918-22 to confer a considerable number of undeserved honours. After all, it was far from proper that, when it was announced that a peerage was being conferred on Sir Joseph

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Robinson, well known in connection with South African mines, Lord Buxton, a former Governor-General of the Union of South Africa, should rise in the House of Lords to say that "no single person in the Union, either white or black, considered that either by his services or by his record he deserved this honour,"<sup>1</sup> and that its announcement had caused universal astonishment and mystification, not to use a stronger or uglier word. The recipient bowed to the storm and the peerage was not conferred, a painful humiliation for the Prime Minister and the Crown alike. Nor was it right that a baronetcy should be conferred on a person whose wealth had been accumulated by successful violation of the Prohibition law of the United States, but whose speculations had so embarrassed his affairs that on his suicide the sum paid to party funds was paid back for the benefit of his creditors. The disadvantage of hereditary honours is much increased by the fact that they cannot under modern law be cancelled by anything short of an Act of Parliament, however unsatisfactory be the means by which they have been obtained or however serious the demerits of the recipients. It may well be that the whole question requires investigation, but for the time being these honours are popular in British society, and they are believed still to furnish a convenient method for filling party coffers, at least for Conservatives.

While the rule of ministerial responsibility for honours is clear and undeniable, there is a practice now recognised which *prima facie* might be deemed curious. It is the rule that on the termination of a

<sup>1</sup> See House of Lords Debates, June 22 and 29, 1922.

ministry the outgoing Prime Minister is expected to submit a list of honours in respect normally of political services. The anomaly, of course, is that when a resignation has been intimated, the responsibility of a minister becomes formal rather than real, and it would clearly be improper for an outgoing government to commit itself to any substantial act of policy which might hamper its successor, since *ex hypothesi* the government no longer possesses the confidence of the Commons. But a Prime Minister remains in office until his successor is actually appointed, so that there is formal responsibility,<sup>1</sup> and the custom is admitted by long usage. It is also the practice of the Crown on the occasion of retirement to offer the Prime Minister some signal reward, as when Lord Derby in 1859 was asked to accept the Garter, Lord Salisbury offered a dukedom in 1886, Lord Rosebery given the Thistle in 1895, or Mr Gladstone was urged in 1886 to take an earldom. In 1894 the offer was not repeated simply because it was known to be unacceptable. No honour, of course, would have been too great for Lord Beaconsfield, but he was content with the unique favour of a sovereign who addressed him as "Ever yours affectionately, V.R. & I." <sup>2</sup>

On the other hand, it would clearly be undesirable to confer honours with a view definitely to strengthen a ministry in electioneering difficulties, as that would tend to involve partisan aid on the part of the Crown, and Queen Victoria properly took this point of view

<sup>1</sup> *Letters*, ser. 3, i. 26.

<sup>2</sup> *Ibid.*, ser. 2, iii. 128. But his wife was given a peerage in 1868 (i. 558). For Lord Oxford's garter, see *Life*, ii. 356; on his peerage, 354 ff.

in 1868 in Mr Disraeli's case.<sup>1</sup> That does not preclude occasional grants even if a ministry is *in extremis*; thus in February 1880 Mrs Bentinck was created Baroness Bolsover on Lord Beaconsfield's assurance that it would add greatly to the strength of the government thus to gratify the Duke of Portland, and in like manner the Queen would have given the Garter to Lord Lonsdale in 1858 to help Lord Derby.

It may be added that on special occasions such as the coronation or the jubilee of the king the rules regarding ministerial responsibility for recommendations are relaxed and it is the custom for the sovereign to arrange with the Prime Minister what honours will be given, leaving the king a fairly free hand in the actual selection. The limits of freedom are uncertain, for rumour used to assert that the breach with the king which ended the tenure of office of Lord Salisbury was due to the king's desire to include too many of his Jewish friends of the days of his youthful impecuniosity in the list. Thus the coronation of Edward VII and George V alike and the jubilee of the latter were marked, as had been the jubilees of Queen Victoria, by generous distributions in which the royal entourage, both political parties, and men of some distinction in art, literature, science or as philanthropists shared.

The acceptance and wearing by British subjects, and in special by British officials, of foreign decorations

<sup>1</sup> *Letters*, ser. 2, i. 552, 553. In 1866 the Queen refused to grant peerages on Lord Russell's retirement (i. 347), but virtually yielded to Lord Derby in 1868 (i. 504, 505), and since then the principle seems to be conceded. On the growth of the peerage, see Gladstone, *Letters*, ser. 2, iii. 236-8; Morley, *Life*, ii. 429.

is controlled by the Crown. The rule was long strictly enforced that officers should not be permitted to accept such rewards. At the Paris Exhibition of 1855 a few British subjects were allowed to receive the Legion of Honour, but the Foreign Office negatived a repetition of this at the Exhibition of 1867. On February 21, 1873, Lord Houghton moved for the abolition of the existing restriction, but Lord Granville urged that the result would be that British subjects would intrigue at foreign courts big and small for decorations, many of which were worthless, and the motion was not pressed.

Under Edward VII the issue was reopened, for the king insisted, against the advice of Mr Brodrick, in allowing the Kaiser to decorate all the officers and men who were in attendance on him while in England for the funeral of Queen Victoria.<sup>1</sup> In the same spirit he opposed in May 1901 the proposal of his minister, supported by the Commander-in-Chief, the Prime Minister, and Mr Balfour, to abrogate the permission, which exceptionally had been accorded, for the acceptance of orders by military attachés. It was argued that the expectation by attachés of such decorations blunted their criticism of the authorities of the countries to which they were sent, and, although the king repudiated this suggestion with much heat, common sense shows that his ministers were in the right. A compromise was arranged under which the wearing of foreign orders was restricted to cases in which officers were likely to meet the king, members of the royal family, or foreign royalties. Later still the king began to realise more keenly the difficulties

<sup>1</sup> Lee, *Edward VII*, ii. 101, 102.

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arising from the grant of foreign royalties of decorations, of which one of his own staff had as many as twenty-three, and a more definite code of rules was laid down. As now revised in 1930, the rules as to officers of the Crown contemplate full permission being accorded under sign manual warrant in case of saving of life, or of service under a foreign government on loan or during hostilities, while restricted permission is accorded in respect of honours granted for personal services to a visiting royalty, and to ambassadors and ministers abroad in respect of royal visits, and to members of special missions. The procedure necessitates application on the part of the foreign government, and approval by the king on the recommendation of the Foreign Secretary ; but, as usual, the warrant is countersigned by the Home Secretary. Restricted permission is given by letter from the Keeper of the Privy Purse. There are analogous regulations regarding the acceptance and wearing of foreign orders by private persons, but restricted permission is more readily accorded in their case.

### 3. *Medals, Stamps, and Coinages*

The award and the wearing of medals fall to be regulated by royal order, and this subject has always received personal consideration from the Crown. Thus Queen Victoria was interested in the motto on the newly instituted Victoria Cross, the first recipients of which she decorated in Hyde Park on June 26, 1857, and preferred the words "For Valour" to "For the Brave," which might imply that only those who received that supreme award were brave. But she

did not carry the day finally as regards the description of the wearers as V.C., for, logically objectionable as that mode of description undoubtedly was, her alternative B.V.C. was rather comic. It was left to her grandson to decide that the decoration might be granted posthumously, and thus to add a real consolation to the relatives of men of outstanding bravery and devotion to duty. But it is worth while recording of Queen Victoria her permission<sup>1</sup> to Lord Roberts to allow his charger to wear the Afghan medal and Candahar star.

The control of the issue of medals was strongly insisted on by the Queen;<sup>2</sup> Lord Dalhousie found that she disapproved of any issue of a medal even to the Company's forces without her sanction, despite precedent. Edward VII was no less firm. When he was asked on April 16, 1904, to sanction a medal to be given by the Sanitary Board of Hong-Kong for anti-plague services, he wrote: "No medal should be struck or worn except as emanating from the sovereign, and I cannot sanction the present proposal. The proposed decoration is simply hideous. The present Secretary of State for the Colonies has neither experience nor full knowledge." In vain did Mr Lyttelton cite the parallel on which he had relied, a case in which the late Queen had sanctioned a medal for Ceylon. "To wear a medal only on certain occasions, and in a colony," he retorted, "is simply absurd and forms a most objectionable precedent. Medals struck for certain occasions and strongly recommended should

<sup>1</sup> *Letters*, ser. 3, iii. 44.

<sup>2</sup> Coronation medals are in part awarded on the personal initiative of the king.



only emanate from the sovereign.”<sup>1</sup> It is easy to see what he would have thought of the temerity of the Quebec government in creating by statute an Order of Agricultural Merit<sup>2</sup> which applies necessarily within the boundaries of the province only. The principle of royal authority was duly maintained as regards the medals for the forces of the oversea Dominions, which therefore are accepted as ranking with the medals authorised for the British forces under the Imperial Government.

In like manner authority to wear foreign medals, whether in the case of officers or civilians, is regulated by the Crown.

The principle that designs of stamps should be approved by the Crown is still adhered to in the case of the British postal issues controlled by the Postmaster-General, though no longer is any attempt made to apply this rule to the Dominions. In the Crown Colonies and Protectorates, on the other hand, the British rule applies, and the principle normally insisted on is that stamps shall bear the royal head, though for special issues exceptions may be allowed.

The design of coinages is likewise strictly supervised by the Crown,<sup>3</sup> and the king is consulted even by those Dominions which have their independent coinages. It is significant of the unique position of the Irish Free State that all trace of the Crown is eliminated from stamp and local coinages alike.

The control of coinage was an ancient prerogative, which for the most part is now superseded by statu-

<sup>1</sup> Lee, *Edward VII*, ii. 182.

<sup>2</sup> Keith, *Constitutional Law of the British Dominions*, p. 448.

<sup>3</sup> Cf. in 1910, Fitzroy, *Memoirs*, ii. 428, 429.

ory authority of 1870 and 1920. It is regularly exercised by Orders in Council issued in the form of proclamations, and the power is exercised in respect of all the Empire except the Dominions, and even in certain cases it has been exercised there when it is desired to coin gold produced locally into sovereigns available for use throughout the Empire.

#### 4. *Salutes*

The king decides all questions affecting salutes, the number of guns to be fired, the occasions on which they are to be fired, and the stations whence the firing is to take place. His authority is applicable to the whole of the Empire, but in practice Governors-General and Governors are authorised to approve of the firing of salutes in such cases as are recognised as proper by local usage.

In this regard there is recorded a most amusing episode<sup>1</sup> which developed into an interesting examination of the relation of the Queen to the Navy, and to the Lords of the Admiralty who exercise the former authority of the Lord High Admiral, an office which has not been held by any individual since under George IV it was granted for a season to the future William IV, who succeeded in making his tenure the source of an investigation of the limits of his authority. In 1872 were held the usual manœuvres of the Channel Fleet, at which for the first time the Prince of Wales was present in the royal yacht *Victoria and Albert* to represent the Queen. According to rule an evening gun is fired every evening from the ship of the officer

<sup>1</sup> Ponsonby, *Sidelights on Queen Victoria*, pp. 1-45.

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in command of the fleet which gives the time to the fleet and determines the setting of the watch, etc., and points out who is the senior flag officer and where he is to be found, and where to look for orders. A morning gun in the same way sanctions the relief of the watch. But on August 10, from the royal yacht a gun was fired anticipating that which normally would have been fired from the ship of Rear-Admiral Hornby, and, when the First Sea Lord of the Admiralty remonstrated and ordered that the gun be fired from the Rear-Admiral's ship, the Prince of Wales ordered the continuation of the firing of the gun from the yacht. Mr Goschen, the First Lord, who was also present, took up the matter, and the Queen was brought in, and ultimately a way out was found by amending the Admiralty regulations in 1873 in order to provide that, where the Queen or the Prince of Wales was present on the royal yacht with the standard displayed, the gun to be fired from the commander-in-chief's ship was to take the time from the gun fired from the royal yacht. This was a sensible conclusion, and it is easy to sympathise with the feeling of the Queen that at no time could she put herself under the order of an Admiral or of the Board of Admiralty. On the other hand, Lord Halifax, who acted as peacemaker—for Mr Gladstone evidently thought the whole matter too trivial to be of importance—posed questions of the meaning of the supremacy claimed by the Queen, which elicited the following sound sense from Colonel Ponsonby,<sup>1</sup> who was managing the episode for the Queen with much skill in substance if not composition: "What

<sup>1</sup> Ponsonby, *Sidelights on Queen Victoria*, p. 41.

I mean by supremacy is entire precedence in command, honour and dignity. You ask if the sovereign sent away a ship which was wrecked, would he not be responsible. I cannot conceive such a case, for a sovereign who exercised his power in this way would soon cease to be a sovereign. If you push arguments to absurdity, I would ask whether you mean that an admiral could order off the royal yacht at any moment. These are straining the constitution and must snap the delicately arranged machine. But the form of command, it seems to me, must belong to the Queen, for you would never advise she should be under some admiral." On the other hand, Lord Halifax laid down a very sound doctrine, if with a rather comic solemnity, when he wrote : " I hold it to be indisputable that the Prince of Wales can give no orders to any public officer in the administration of public affairs. He has no authority of his own—he can only derive it from the Queen. It is impossible to say, when he goes down to act for the Queen in a matter of ceremony, that this gives him authority over any part of the administration of public departments. Certain persons are entrusted with the performance of certain duties and functions by formal commission, patent or authority from the Queen, and such authority cannot be superseded except by similar authority as formally conveyed. It is essentially for the interest of the sovereign that this should be so. If any public official was bound to obey a prince who could show no formal authority from the sovereign, it would in old times have gone far to warrant officers in aiding rebellion by an undutiful son." <sup>1</sup> Not only the Queen,

<sup>1</sup> Ponsonby, *Sidelights on Queen Victoria*, pp. 38, 39.

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we may admit, but a most distinguished minister was capable of showing no sense of humour. In fact it appeared that the action of the commander of the royal yacht followed the only precedent available, one of 1858. The *United Services Gazette* published an amusing skit on the affair under the title of "The Fatal Gun."

The position of the sovereign in relation to the ministry was put with singular felicity by Colonel Ponsonby in a letter to his wife of October 26<sup>1</sup>: "Of course if it came to a fight it must end in her giving up these rights, but it will be a very ugly thing for the government to demand, placed in the light it has been done. And Forster will certainly not join in anything that has the appearance of discourtesy." The sovereign must yield to the final demand of a ministry, unless she is prepared to replace it by another which will take responsibility for her refusal; but she can count in her resistance on the strength of the loyalty to the wearer of the Crown which is innate in most of her Cabinet ministers.

<sup>1</sup> Ponsonby, *Sidelights on Queen Victoria*, p. 42. Forster then was often regarded as a likely successor to Mr Gladstone.

## CHAPTER XIV

### THE KING AND THE ESTABLISHED CHURCHES

#### 1. *The Church of England*

HISTORICALLY the prominence in the coronation oath attests the vital importance of the Church of England in its relation to the Crown. The special circumstances of 1689 render it intelligible how the safeguarding of the Church came to assume such great importance, but it was unhappy for British history. It was on the oath that George III relied in his determination not to sanction Roman Catholic emancipation, and the fatal subservience of Pitt threw away the chance of conciliation between Great Britain and Ireland. The assent to the Act of 1829 by George IV came too late to save the situation. Even so, it was only in 1869 that Mr Gladstone was able to disestablish the Irish Church, for the Union with Ireland Act, 1800, had provided for the maintenance of the Church of England and of Ireland. In this matter he had to meet the anxiety of the Queen that nothing should be done, and then her assistance was obtained to secure passage in a form suitable to the interests of the Church. The Queen brought influence to bear on Archbishop Tait, who saw the Prime Minister before the Bill was introduced, and found his proposals so relatively moderate that with the skilful

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aid of Lord Granville the measure was duly carried.<sup>1</sup> It doubtless told in favour of the Queen's attitude that she so seldom visited Ireland, and thus could not feel deeply concerned for the fate of the Church, nor could she ignore the strength of the argument against establishment in a country where the population in overwhelming measure did not follow the Anglican doctrines.

In the Church of England the Queen took a deep interest. Her powers derived from the Elizabethan modification of the Tudor reforms remained unaffected during her life. She deemed herself "head,"<sup>2</sup> and was by no means pleased to find that according to Mr Hardy, quoted by Mr Disraeli, she could only claim to be supreme governor; in fact, while the style "head" was not retained from Henry VIII by Queen Elizabeth, there was other authority for the title, and it had no spiritual arrogance. It merely asserted her sole authority as opposed to the Papal claims. Under the Submission of the Clergy Act, 1534, her licence was necessary for the making of canons by the Convocations of Canterbury and York, which could only meet on her authority, and a similar licence was necessary for the promulgation of canons. The activity of the Convocations in her reign was a sign of the awakening of the Church, but the Queen was wholly untouched by modern ideas. To the advance of Roman Catholicism she was strongly opposed, she approved the useless Ecclesiastical Titles Act of 1851, repealed in 1871, and she was determined to work steadily against Papal influences. Hence the growing irregularities of church worship

<sup>1</sup> *Letters*, ser. 2, i. 598, 603 ff.

<sup>2</sup> *Ibid.*, ii. 349.

were severely frowned upon, and she endeavoured to stir up Mr Gladstone to secure legislation to prevent the continuation of practices foreign to the spirit of the Church. Her eloquence was wasted on that Prime Minister, but she had more success with Mr Disraeli. The fruit of her efforts was the Public Worship Regulation Act, 1874, which was, according to her Prime Minister, not liked at first by the House of Lords, while the Cabinet was adverse and the Commons hesitating and ambiguous.<sup>1</sup> In point of fact he himself only developed an enthusiasm for this measure to combat ritualism, as he inaccurately described it, when he found that unexpectedly it was popular. In fact, of course the measure proved of no great value, and the process of modernisation of ideas as to ritual went on without regard to the royal wishes. Moreover, especially at the later part of her reign, a new terror arose in the shape of the movement for the disestablishment of the Church in Wales. To this she informed Lord Rosebery she was wholly opposed,<sup>2</sup> but happily the issue was far from ripe for advice in that direction by the time of her death, though the Bill was read a second time in the Commons on April 1, 1895.

The real power of the Crown lies in the patronage which includes the archbishops, bishops, deans, and in some cases canons. The selection of men for these offices obviously gives an enormous power to affect the movement of thought and ritual within the Church. The power to appoint rests with the Prime Minister, but the formal acts are those of the Crown, which authorises the Dean and Chapter to elect the

<sup>1</sup> *Letters*, ser. 2, ii. 343.

<sup>2</sup> *Ibid.*, ser. 3, ii. 452.



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bishop whose name is communicated. The sovereign therefore has the right to learn the grounds of selection, and to interpose personal judgment, though the final choice rests with the minister. Even against the personal demand of George IV Lord Liverpool insisted on his right to appoint to a vacant canonry at Windsor, declaring that he would resign if the king's favourite Sumner was appointed.<sup>1</sup> The Queen was deeply interested in church patronage, and she was successful in establishing her right to appoint the Dean of Windsor as a private not a political appointment, and Mr Gladstone conceded the right to her.<sup>2</sup> Indian bishoprics were regularly submitted for her sanction.

Obviously in dealing with ecclesiastical patronage the Queen had to rely on professional advice, and she found it at first in Dean Wellesley of Windsor, at whose death in 1882 she found a worthy substitute in the son-in-law of Archbishop Tait, Dr Randall Davidson. Tait's own appointment had been carried by her against Mr Disraeli, who was taken at a disadvantage as he had no suitable alternative candidate to insist upon, so that she finally persuaded him to accept her proposal.<sup>3</sup> Lord Palmerston protested against her resort to unofficial advice, but she defended herself with spirit, and continued to consult Dean Wellesley and later Dr Davidson on nominations. Naturally her own preferences were by no means always accepted; Mr Gladstone in 1872 would not accept her nomination of Mr Phipps, and Lord

<sup>1</sup> *Greville Memoirs*, i. 47.

<sup>2</sup> *Letters*, ser. 2, iii. 341. So also the canons (ii. 440, 445).

<sup>3</sup> *Letters*, ser. 2, i. 544 ff.; *Life of Disraeli*, ii. 407 ff.

Salisbury refused to give Dr Davidson the See of Winchester in 1890, and preferred as Archbishop Dr Temple in 1896.<sup>1</sup> No doubt her protégé was fully worthy of high office, though his essential merits were not those of an ecclesiastic but rather of a skilled administrator. It is interesting to note that she vainly tried to induce Archbishop Benson to support the Deceased Wife's Sister Marriage Bill,<sup>2</sup> and it may well be that her suggestion to Lord Rosebery that there were too many bishops in the House of Lords was due to her natural annoyance at their persistent opposition to that measure, which met her approval.

The Crown possesses a considerable though much reduced patronage of livings, but that is exercised in part by the Lord Chancellor without the formality of submission to the Crown, in part by the Prime Minister with that formality.

Edward VII had to face new demands, for the spirit of toleration was spreading and Roman Catholics naturally desired to take advantage of it to secure relaxation of the terms of enactments bearing unfairly on them. The king was determined to maintain the Protestant religion, but eager to relax anything which offended needlessly the feelings of his loyal Roman Catholic subjects, and he pressed for an alteration of the form of coronation oath. There was, however, delay in complying with his request and the Lord

<sup>1</sup> *Letters*, ser. 3, iii. 94 ff., 104.

<sup>2</sup> *Ibid.*, ser. 2, iii. 422 ff. For many discussions with special reference to patronage, see *Letters*, ser. 2, i. 533 ff., ii. 422 ff., iii. 226, 336 n. 1. Lord Salisbury had to protest against her narrow attitude (ser. 3, i. 426-9, 536, 537-45, 558-63, 575 n. 1, 595, 631-4). Most drastic of all is Mr Disraeli's warning (ser. 2, ii. 374). See Bell, *Randall Davidson*, i. 163 ff., 282 ff., 382 ff.

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Chancellor proved deliberately obstructive, and eventually, to the royal annoyance, the matter had to stand over until his successor's reign, when the Accession Declaration Act, 1910, substituted an innocuous formula.

The king, however, did not make the mistake of allowing doubt to be cast on the sincerity of his adherence to the Protestant faith. The issue arose in respect of the proposal to have on September 13, 1908, a procession of the Holy Sacrament in London, at which Cardinal Vannutelli and other dignitaries were to be present, as "an act of reparation for the reformation." The procession was clearly illegal under the restrictions maintained by the Roman Catholic Relief Act, 1829, and to arrange it was an insult to the government and the Protestant Church. Protests were addressed to the king by the Protestant Alliance and the Church Association. He took the matter up with the Prime Minister and urged him to arrange through Lord Ripon to have the procession stopped, and Cardinal Bourne finally dropped the Host and the illegal vestments from the procession. The king justly censured the neglect of Mr H. Gladstone to show prevision or firmness, and it is not surprising that Lord Ripon insisted on resigning at this reminder of Catholic disabilities and the lack of courtesy shown in the belated character of the intervention, though age and ill-health were given as causes, in order to avoid embarrassment to his colleagues.<sup>1</sup> It is curious to note that the prohibition then enforced has since (1926) been repealed, and that so strong was feeling on change of religion in the 'eighties that

<sup>1</sup> Lee, *Edward VII*, ii. 659-63.

Lord Ripon's conversion was thought on all sides to prelude his disappearance from public life.

In 1910 the king returned to the attack in respect of the consecration of the cathedral at Westminster, taking exception to the proposed procession round the cathedral. He would have wished it stopped, but Mr Churchill insisted that he had no legal power to prevent it being held, despite its illegality, and the king acquiesced.

In ecclesiastical as in other patronage the king took a keen interest, though mainly on personal grounds; he does not seem to have felt so strongly as did his mother on questions of disestablishment, when she fought hard to block Dr Percival's appointment as bishop of Hereford,<sup>1</sup> or of doctrine, as when she refused to hear of Dr Liddon as bishop of Oxford.<sup>2</sup> For the See of London Dr Winnington Ingram was one of his nominations, as Dr Davidson was not available. With characteristic thoughtfulness he urged Lord Salisbury to give the Deanery of Peterborough to his brother-in-law, Canon Alderson, but his Prime Minister's relation-promoting power was for the moment exhausted and required rest, doubtless much to the royal amusement. In several matters he displayed marked judgment; he disapproved of colonial bishops becoming canons, unless they dropped the name and dress, and objected to pluralism when the Bishop of Winchester proposed that the king's chaplains need no longer resign their office on becoming suffragan bishops or deans. It seems, however, that the interest of the king in ecclesiastical appointments was less continuous than

<sup>1</sup> *Letters*, ser. 3, ii. 468 ff.

<sup>2</sup> *Ibid.*, i. 427.

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that of the Queen, a fact perhaps not unconnected with the change of ministry which from 1906 resulted in nominations resting with a non-Anglican Prime Minister.<sup>1</sup>

The reign of George V was marked by an enactment which very materially altered the royal power regarding church legislation. Hitherto the power of authorising the initiation of legislation and of determining whether proposed legislation should be approved had rested with the Crown. But in 1919 the king agreed to the Church of England Assembly (Powers) Act, 1919, which conferred legislative power with complete freedom of initiative on the Church Assembly, a body representative of clerics and laity. The control over this legislation is entrusted to the Ecclesiastical Committee of thirty members, half nominated by the Lord Chancellor, half by the Speaker; this body reports on the measures submitted, and on their expediency especially in relation to the constitutional rights of all His Majesty's subjects.<sup>2</sup> This report is then submitted, if the Legislative Committee of the Assembly so desires, to Parliament, and, if both Houses pass resolutions approving assent being given to the measure, it receives assent in the same terms as a public Bill. It follows, therefore, that royal authority is drastically reduced, for, though the old procedure of Convocations still stands, the sphere of Church Measures is extremely large and the royal assent to them after approval by Parliament really stands on the same footing as that of an ordinary Bill. The issue is very important, for the controversy over the

<sup>1</sup> On Mr Asquith's patronage, see Spender, *Life*, ii. 378, 379.

<sup>2</sup> Ridges, *Constitutional Law of England* (ed. Keith), pp. 412-14.

Prayer Book which led in 1927 and 1928 to the rejection by the House of Commons of two measures was one on which very strong representations would have been addressed to the king if the issue had been still dependent on the action of the Crown, and a decision in either sense would have presented great difficulties for His Majesty.

A marked improvement in relations with the Pope set in during George V's reign, for owing to the stress of war conditions it was deemed definitely advantageous to establish a legation at the Vatican, and despite protests by Protestant bodies the representation has continued. It must be admitted that it failed egregiously to secure more satisfactory conditions in Maltese politics. The Pope allowed his Italian sympathies to dull his appreciation of the rights of the British Crown, and no effective aid was given to the British government in seeking to restore in 1920-30 and 1932 peaceful political conditions in the island.<sup>1</sup> As a result, in 1933 the constitution had a second time to be suspended and its final laying aside seems to be inevitable. The maintenance of an envoy at the Vatican, therefore, though it would now be difficult to withdraw representation, may be added to the many unhappy legacies of hostilities.

## 2. *The Church of Scotland*

The Church of Scotland claimed a deep place in the affections of Queen Victoria, who indeed believed

<sup>1</sup> Parl. Paper, Cmd. 3588 (1930). It may be noted that Edward VII in 1908 attended in state the Requiem Mass for the King of Portugal, and that the Prince of Wales approved this breach of tradition (Fitzroy, *Memoirs*, i. 340).

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herself to be the head of that body, though therein she was unquestionably guilty of a deep heresy, of which the Lord Advocate had to disabuse her.<sup>1</sup> None the less it remained for her the real and true stronghold of Protestantism, as indeed it has always been, and she felt keenly the sanctity of her oath to preserve the established Church. Happily, though the issue of disestablishment arose in her time, it never achieved serious dimensions, for she warned Lord Rosebery that she could not agree to that course.<sup>2</sup> The position, it must be remembered, differed from an ordinary issue of ministerial advice, for the Queen had her oath to rely upon, and, though it was possible to deride such an obligation when offered as a reason for refusing to agree to Roman Catholic relief by a worthless prince such as was George IV,<sup>3</sup> it would have been very difficult to press the Queen, a devout Christian who attended the ministrations of the local minister with assiduity and who had in Dr Norman Macleod<sup>4</sup> an adviser equally capable and far more devout than Dr Davidson, to assent to a measure which ran counter to her oath.

Happily the necessity was never imposed on her or her descendants. The ingenuity of theologians and of lawyers found the means by which the great rival Church, the United Free Church in which the United Presbyterians and the Free Church had merged, consented to reunite with the Church of Scotland, which not merely received thereby a great

<sup>1</sup> *Letters*, ser. 2, ii. 349.<sup>2</sup> *Ibid.*, ser. 3, ii. 452.<sup>3</sup> Ellenborough, *Political Diary*, i. 368.<sup>4</sup> *Letters*, ser. 2, ii. 217. He stirred her up to a severe attack on the Episcopal Church of Scotland for proselytism in 1866 (*ibid.*, i. 376-8, 380, 381).

access of strength but also was freed by the Church of Scotland Act, 1921,<sup>1</sup> from practically any control by the Crown or the civil courts.<sup>2</sup> The king relinquished with great courtesy his royal rights even before the statute became operative, instructing his High Commissioner to waive the formal assertion of the royal claim of right to control the meeting of the General Assembly of the Church by fixing the date of its reassembling in the following year. This act of consideration, while it terminated the one sign still remaining of the high claims of the Stuarts and ended any semblance of royal authority, was deeply appreciated by his people as one more sign of the king's deep sympathy with their belief in the spiritual and temporal independence of the Church. It is curious to note that within so brief a time the king laid aside the real and the formal control in matters of legislation which the Crown had hitherto exercised over the two established Churches of his realm. Like his grandmother the king was punctilious in Scotland in his participation in the rites of the Church of Scotland, deriving thence an additional affection in the hearts of a people still deeply conscious of the value of organised religion in the national life.

<sup>1</sup> See Anson, *The Crown* (ed. Keith), ii. 273-6.

<sup>2</sup> A *cause célèbre* on this head, the Kirkmabreck case, excited much Scots comment in April 1936.



## CHAPTER XV

### THE KING AND HIS PEOPLE

#### 1. *Allegiance and Nationality*

Chapter XV ALLEGIANCE is essentially the duty owed by everyone to be faithful to the head of the nation, and it may be classed as natural, that owed by every British subject wherever he may be ; local, that owed by every person—save a foreign ambassador or sovereign or foreign army—present on British soil ; and acquired, whether by conquest, as when Boers became British on the annexation of the South African Republic and the Orange Free State, or by naturalisation.

In its origin natural allegiance was dependent on birth in England, for allegiance was essentially bound up with the duty of protection, and the son of an English subject born oversea was an alien. But in time this restriction was relaxed, and as the result of the Great War a contrary rule gained force. Allegiance, it was felt, should be allowed to continue despite residence and birth abroad where such allegiance was valued. Had not the Argentine and other lands sent home to serve voluntarily in the war many youths whose children under the existing law, which gave only grandchildren of natural-born British subjects born out of British territory British

nationality, would cease to be British? Hence<sup>1</sup> the class of natural-born British subjects has been widened. It includes almost all persons born on British territory or on British ships, and the child of such a subject, though not born on British territory, is also a British subject if his father was born on British territory or in a country where the Crown exercises extraterritorial jurisdiction; or was naturalised; or was in the service of the Crown; or had become a British subject by annexation. In any other case the child may be registered at a British consulate and acquire British nationality definitely if within a year after age 21 he declares his intention to do so, and if permitted by local law renounces any foreign nationality acquired by birth.

Naturalisation is granted at the discretion of the Home Secretary, but a person wishing to be naturalised must have resided in British dominions or served the Crown for five years, and the last year of residence must have been in the United Kingdom. Such naturalisation now has effect through the British Dominions. Similar naturalisation may be acquired from a Dominion government. In any case good character is demanded, and a knowledge of English, or in the Dominions another official language, and the intention to reside in British dominions or serve the Crown. Naturalisation may be taken away by the Home Secretary if it has been obtained by concealment or if the person naturalised proves disloyal. The system of imperial naturalisation does not apply to the Irish Free State.

<sup>1</sup> British Nationality and Status of Aliens Act, 1914-1933; Dicey and Keith, *Conflict of Laws* (ed. 5), pp. 141-89.

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Married women normally follow the status of their husbands, but certain exceptions are allowed. If a woman of British birth marries an alien and he becomes an alien enemy she may receive from the Home Secretary a certificate of naturalisation. Moreover, under an Act of 1933 a British woman does not lose her nationality on marriage unless thereby she obtains her husband's nationality, so that marriage to an American citizen no longer leaves the wife without nationality. If her husband changes nationality during marriage she loses her nationality as British only if she acquires the new nationality of her husband, and even so she may within a year claim retention of British nationality. So, too, an alien woman whose husband is naturalised does not attain British nationality unless she asks for it within a year. This is so far as British opinion, in order to keep in touch with the Dominions, has thought it wise to go in respect to the desire of women to be placed in matters of nationality in exactly the same position as men. In war time, of course, separate nationality may act with much inconvenience.

Allegiance is not now inalienable. A British subject may lay it aside by becoming naturalised in a foreign country, but he cannot do so effectively during war so as to exempt himself from liability to punishment for treason, and the naturalisation itself is treasonable.<sup>1</sup> If a British subject is also by birth under foreign law a foreign subject he may renounce British nationality, but not during war so as to escape liability to military service. British nationality may also be lost on cession of territory. When

<sup>1</sup> *R. v. Lynch*, [1903] 1 K. B. 444.

a father loses British nationality his minor children lose it if they acquire a foreign nationality, but that does not affect the children of a British mother who marries a foreigner.

These general principles apply throughout the Empire, but any Dominion may provide a system of local naturalisation which confers the status of British subject locally only, without having the effect of giving British status in the United Kingdom.

Within the wider sphere of British nationality there are narrower spheres, those of Canadian and Union of South Africa nationality introduced in 1921 and 1927. The impetus to this development was provided by the necessity of distinguishing between British and Canadian nationals in connection with the rule of the Statute of the Permanent Court of International Justice that not more than one judge of any nationality may be appointed. In the case of the Union nationality has been also made the condition of political rights, as is the case with Irish citizenship under the Constitution of the Irish Free State. A few Canadian and Union nationals are not British subjects, but in the Irish Free State under legislation of 1935 it is claimed that Irish nationals are not British subjects. The matter will further be considered below. So far, however, the overwhelming mass of the people of the Empire are natural-born British subjects, and that fact is the most obvious bond of union known among them.

Allegiance is not, of course, dependent on the taking of any oath, and only a limited number of officials, members of the defence forces, clerical persons prior to ordination, and members of Parlia-

ment are required to take it in the United Kingdom, though an affirmation in lieu may be made by those without religious belief or forbidden by that belief to take oaths. In the Dominions also the oath is only required in certain cases, nor has the fact of having taken it proved sufficient to deter those who have done so from rebellion.

## 2. *The Law of Treason*

Allegiance was essentially personal, and breach of it was punished by the law of treason, which therefore, as defined by statute of 1352, was treated as essentially covering matters affecting the life, honour and liberty of the king and those nearest to him. The conception of treason as a crime against the state was slowly evolved by legal construction. Thus it was treason to compass or imagine the death of the king, and every rebellion was ruled by the courts to involve compassing or imagining death. To levy war against the king was stretched to cover riots to pull down all meeting houses of dissenters or even brothels. It is also treason to adhere to the king's enemies in the realm or elsewhere, or to give them comfort, but it has been ruled that in a rebellion like the '45 if a man under continuous compulsion acts with rebels he is not guilty, provided that he frees himself whenever possible from his evil communications.<sup>1</sup> It is treason to seek to prevent the accession to the Crown of the statutory successor or to assert that anyone has a better claim. Since the death of Henry, Cardinal York, this crime has become rather hypo-

<sup>1</sup> *R. v. MacGrowther* (1746), 18 St. Tr. 391, 394.

thetical. No treason can be proved by the evidence of less than two witnesses ; the penalty is death, and to conceal treason, misprision of treason, is punishable by penal servitude for life.

Most of the constructive treasons of the courts were by a statute of 1848 converted into treason felony, punishable with penal servitude for life, though they may still be treated as treason. These offences include attempts to depose the sovereign or to deprive him of part of his dominions, and attempts to levy war so as to put constraint on the Crown or the Houses of Parliament. Thus it was possible to treat as treason felony the efforts of the Fenian Brotherhood to blow up Scotland Yard and the Houses of Parliament in 1883.<sup>1</sup>

Treason is punishable even when committed abroad, contrary to the usual territorial limitation of English criminal law. Hence the two important treason causes of recent times have been the trials of Mr Lynch and Sir R. Casement<sup>2</sup> for treasons committed in whole or part overseas. But treason requires guilty intention, and a German consul<sup>3</sup> was held innocent for helping German reservists to return home. But, as this case illustrates, even a resident alien whose country is at war with Britain owes local allegiance, and it has been ruled that this applies even when British territory has been invaded, as was Natal, and the person accused of treason was a national of the invading power.<sup>4</sup> The doctrine is that

<sup>1</sup> *R. v. Gallagher* (1883), 15 Cox C. C. 291.

<sup>2</sup> [1917] 1 K. B. 98 ; *Parmiter, Roger Casement* (1936) ; Bell, *Randall Davidson*, ii. 786-9.

<sup>3</sup> *R. v. Ahlers*, [1915] 1 K. B. 616.

<sup>4</sup> *De Jager v. Attorney-General of Natal*, [1907] A. C. 329.

a resident alien shall so conduct himself that the state shall not suffer from his admission, and obviously, if he adheres to the invaders, his local knowledge may render his services peculiarly obnoxious to the interests of the country which has given him shelter. It is, of course, open to the sovereign in case of war to withdraw his protection, and to intern the alien as a prisoner of war, and it was found necessary thus to act in many parts of the Empire during the war. But an uninterned alien is entitled to the protection of the courts.

### 3. *The Duties of the Crown*

The obligations of the Crown to its subjects are summed up in the coronation oath above cited. The king promises to preserve order and justice and good government and to maintain the national Church. In short, his duties are protection and the rule of law. But, while every British subject out of the realm may justly demand protection, the right is necessarily a discretionary one. The Crown maintains military and naval forces to safeguard British subjects in life and property, but it must decide to what extent it shall use these powers and on what conditions. It may definitely warn subjects that they go to certain places at their own risk. It may impose conditions on its grant of protection, such as the requirement of payment for the provision of military guards for ships navigating in pirate-infested Chinese waters.<sup>1</sup>

The interests of subjects abroad are cared for in commercial and ordinary business by the British

<sup>1</sup> *China Navigation Co. v. Attorney-General*, [1932] 2 K. B. 197.

consular service, whose care extends to all British subjects whether from the United Kingdom or elsewhere, and in matters involving issues between governments by the diplomatic service. But it always rests with the Crown how far any quarrel shall be taken up officially, and the courts have ruled that if a treaty is made and compensation obtained for British subjects it will not be assumed that the persons aggrieved have any right to sue the Crown by petition of right on the theory that the Crown is a trustee for the sums paid by the foreign power. This principle has been applied to payments made by France, by China, and in respect of war damage done to civilians by Germany in the Great War.<sup>1</sup>

The Crown owes to the subject the maintenance of the rule of law. The Act of Settlement, 1701, expressly asserts that the sovereign and his ministers are bound to govern according to law and it confirms all the laws of the land. From observance of rule by law can be derived the essential liberties of the people: liberty of the person; the liberty of discussion; the right of public meeting; the right of association; the right of property. The law safeguards the subject from that discretionary authority of the executive which destroys personal security in Italy, Germany, Russia. So too the law is defined by statute or by the courts, so that no sphere is left in which the judge pronounces guilt on actions hitherto legal on the score that they conflict with his conception of the principle of the Fascist, Nazi or Soviet regime. The two Habeas Corpus Acts of 1679 and 1816 still secure the vindication of freedom, and the right of property

<sup>1</sup> *Civilian War Claimants Association v. R.*, [1932] A. C. 14.



is so deeply respected that it was ruled by the House of Lords that not even the plea of employment for military purposes disentitled the subject to compensation for the taking of his hotel premises.

#### 4. *The Right of Petition*

The revolutionary settlement assigned formal statutory authority to the common law right of petitioning the sovereign which had been called in question by the proceedings of James II in the case of the seven bishops. The Home Secretary, as the officer charged with the general duty of acting as the means of communication between subject and Crown, has the duty of dealing with these petitions, and of securing that they are duly submitted to the king with a suggestion of the due reply. One important side of his work is dealing with the petitions of convicted persons or their friends for remission of punishment, but petitions may deal with any subject provided they are couched in respectful terms and conclude with an assurance of the intention of the petitioner to pray for the Crown. Those from civil servants necessarily are referred to their departments for the advice as to the reply which the Crown should give.

Naturally in such issues the king must act almost without question on the advice tendered, but in special instances the matter may form the subject of special investigation and a considered report. In any case the nature of a petition assures that it is not disposed of unconsidered. Petitions from persons resident in colonies or protectorates are sent through the Governor to the Secretary of State, by whom they

are submitted with advice to the king, and the Dominions Secretary deals likewise with the few petitions from residents in the Dominions. Petitions in respect of judicial sentences are always referred for final decision to the Governor, for the delegation to him of the prerogative of mercy is deliberately intended to preclude exercise by the king on the advice of the British government. Only knowledge of local circumstances can justify remission of sentences.

### 5. *The King in relation to Emergencies*

Every citizen and a fortiori the king has a clear right to take such steps as may be immediately necessary to meet emergencies threatening the structure of the state. But the obligation of the king is essentially different in character, because the head of the political structure has a vital duty to perform in preserving it. It has even been contended<sup>1</sup> that in apprehension of emergency the Crown may act so as to interfere with private rights. But this doctrine carries the matter beyond safety, for it would leave too wide discretion to the Crown.

In territories outside the United Kingdom of Great Britain the Crown's powers to safeguard the country in emergency have often been expressed in the form of a declaration of martial law.<sup>2</sup> That means that the Crown has determined that there exists a state of affairs in which it is necessary to use force to suppress

<sup>1</sup> *In re Petition of Right*, [1915] 3 K. B. 649, 659, but the case was compromised (32 T. L. R. 699).

<sup>2</sup> Keith, *Constitutional Law of the British Dominions*, pp. 381-3.

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disorder, and for this purpose it is requisite to depart from the normal forms of legal proceedings. If war or insurrection is raging, the civil courts are not entitled to interfere to enforce in the usual manner the rights of the subject. But whether war or insurrection be raging, it is for the courts themselves to say. Moreover, when the state of hostilities ceases, the courts resume automatically their right to intervene, and they may punish persons whose actions have in their opinion exceeded the needs of legitimate restoration of order and may award damages against them to those injured. In practice it is the invariable usage to prevent punishment by enacting Acts of Indemnity<sup>1</sup> which render immune acts done in good faith to suppress war or insurrection. In declaring martial law the responsibility of the Governor in a Crown Colony is complete, in a Dominion the ministry advises, but the Governor-General cannot wholly divest himself of responsibility.

In the United Kingdom the position is in great measure provided for by the Emergency Powers Act, 1920, which gives the power to the king to issue a proclamation of emergency if satisfied that some action has been taken or is threatened by some person or body of persons of such a nature or on so extensive a scale as to be calculated, by interfering with the distribution of food, fuel, water or light or of the means of locomotion, to deprive the community or any substantial portion thereof of the essentials of life. The proclamation may only be in force for a month, but a fresh proclamation may be issued from

<sup>1</sup> The Indemnity Act, 1920, of the British Parliament applied generally.

time to time. It must be submitted forthwith to Parliament, which must be summoned if it will not meet for more than five days after the date of issue. So long as it stands the king by Order in Council may make regulations for securing the essentials of life to the community, but such regulations are subject to confirmation within seven days by both Houses of Parliament, and may not impose military or industrial compulsion, nor take away the right to strike or persuade peacefully others to do so. The extent of the powers which may be exercised is none the less very wide, and effective use of the statute brought protection to the community when menaced by the gross crime <sup>1</sup> of the General Strike of 1926, when the attempt was made to destroy the authority of the government of the Crown. Fortunately the authority of the statute was reinforced and justified by the attitude of the people, who condemned whole-heartedly the strike and by their combined efforts defeated it.

In these issues, of course, the action of the king cannot be automatic. He is not in a position to throw responsibility for the issue of a proclamation on ministers in the sense that he must accept the proposal whether he regards it wise or not. In an issue of this kind, he must satisfy himself of the necessity of the proclamation, and accept it only if he is satisfied that it is proper and right, or at least that it has such a *prima facie* claim to be so regarded that he would not be justified in forcing the resignation of the ministry on this question. The power is thus delicate in the extreme, for it falls to be exerted only when a definite

<sup>1</sup> Cf. Somervell, *George the Fifth*, pp. 351-68; Mallet, *Lloyd George*, pp. 272-81.

effort is being made by malcontents to overthrow the basis of civilised life, and it should not be invoked against conditions which can be dealt with by normal means.

In ordinary circumstances ministers are essentially responsible for securing public order, without necessitating any personal action by the king. The employment of military forces for this purpose is arranged in serious cases between the Home Secretary and the War or Air Office or the Admiralty, and the king is merely informed as in all important cases of public business. A very difficult problem would arise if the government of the day were to fail in its duty and to allow rioting to proceed unchecked and the public to suffer serious difficulties from interference with supplies of food, fuel, water, light or transport. It is recorded that George III<sup>1</sup> himself had to intervene to secure the prompt action of the military forces to suppress the Gordon riots, and in the Dominions Governors have on occasion had pointedly to remind ministries that the law must be carried out. But obviously it is very difficult for the sovereign to decide to what degree he should bring influence to bear on ministers. Thus in the troubled times in Ireland before the war the king might have pressed on ministers justly enough their duty not to allow military forces of totally illegal character to be raised by Ulster Unionists and by the Nationalists, but plainly it would have been difficult to insist on making a vital issue of a question like this, since the king would have deeply offended the opposition by his attitude, while he would at the same time have

<sup>1</sup> Anson, *The Crown* (ed. Keith), i. 309.

annoyed the ministry which, on the very unsound advice of Mr Redmond, had decided not to enforce the law against Sir E. Carson and Sir F. Smith.<sup>1</sup>

Nevertheless the fact remains that on occasion the issue of the maintenance of order, like that of the maintenance of the constitution with which it stands in close relation, might compel action by the king to enforce protection of the public, and it may well be that such an initiative would have the desired results without bringing about resignation. And, if resignation followed, there would certainly be sound grounds for hoping that the ministry could be replaced without essential difficulty, for the maintenance of law and order is the essential interest of all citizens. In the case of the Irish rebellion of 1916, the Commissioners who enquired into the causes and responsibility for the failure to prevent the outbreak stressed the gravity of the errors made in not securing the enforcement of the law as the paramount duty of those at the head of the control of the affairs of state. The advantages of enforcing order were further revealed in a striking manner in 1931-6 under the rule of Lord Willingdon in India, where under the rather lax, if well-meaning, control of Lord Irwin the essential function of maintaining order had been overlooked in the desire, quite vainly, to conciliate Indian extremist opinion, and it seemed almost to have been forgotten that the principal benefit which Britain had to bestow on India was that of law and order.

<sup>1</sup> Cf. Lord Morley's dissent, Fitzroy, *Memoirs*, ii. 528; Mr Asquith's apologia is weak (Spender, *Life*, ii. 21-4).

## CHAPTER XVI

### THE PROPERTY OF THE CROWN AND THE KING'S CIVIL LIST

#### 1. *The Property of the Crown*

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UNDER the feudal kingship the king was regarded as the final owner of all land in England, but he possessed also in immediate beneficial ownership extents of land which varied greatly from time to time according to the prodigality of gifts by the Crown and the magnitude of areas obtained by forfeitures or escheat. Parliament made various efforts to prevent rash alienation, but William III was as wrong-headed as any of his predecessors in his treatment of his land rights and extensive resumptions were found necessary at the cost of his favourites, female and Dutch alike. Under Anne matters were better ordered by statute. This final ownership proved of the highest importance in the colonies, for on the strength of it the Crown was able to claim all the land in Canada, Newfoundland, Australia and New Zealand, so far as it was not granted away under royal authority.

The Crown is also owner of the foreshore, the land between high and low water mark, but subject to the right of the public to use it for navigation or fishing, but not as of right for recreation or idle sport. It owns also any land which is left bare by slipping away of the sea or aggregated by alluvion, and if any island

springs up within territorial waters it belongs, it seems clear, to the Crown.<sup>1</sup> Further, the whole bed of the sea up to territorial limits appears to belong to the Crown throughout the British dominions.<sup>2</sup>

All mines of gold and silver are the property of the Crown, but since a statute of 1689 mines of base metals are not made royal by reason merely that some precious metal is contained therein. The prerogative right was ascribed at once on discovery of the gold of Australia to the Crown, and formed the basis for securing for the Crown control over exploitation and a fair share for the state. The same rule has applied to other colonies with equal importance, as in the case of the mines of Kenya. By the Petroleum (Production) Act, 1934, the property in petroleum existing in its natural condition in strata in Great Britain is vested in His Majesty, who has the exclusive right of searching for and getting it.

Under the Administration of Estates Act, 1925, the Crown is entitled to all the real and personal property of any person dying without a wife surviving and without relatives within the rather narrow limits imposed by that Act. Prior to the measure the Crown took land by escheat, and personal property as *bona vacantia*, and it takes still by that title the personal property of a dissolved corporation, such as the assets of Russian companies destroyed by the operation of Soviet law, and any other property to which no person can establish a claim. Wreck in its various forms belongs to the Crown, where there is no owner

<sup>1</sup> *Secretary of State for India v. Chelikani Rama Rao* (1916), 85 L. J. P. C. 222.

<sup>2</sup> *Lord Advocate v. Wemyss*, [1900] A. C. 48, 66.



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to claim, and treasure trove also falls to the Crown. The essence of treasure trove is that it must be a treasure, gold or silver coin, plate or bullion, hidden away in the earth or other secret receptacle by some person with the intention of recovering it later ; if the property be simply abandoned, then it can be appropriated by the first taker. It is now the practice of the Treasury to award to finders of treasure, who report their finds promptly to the coroner, whose duties include that of holding an inquest on such discoveries, the articles discovered if not required for national institutions, and to pay for such as are required at their antiquarian value.<sup>1</sup>

If there is evidence of usage going back before Magna Carta the Crown may have an exclusive right of fishery in a navigable river or an arm of the sea, but such appropriation is prohibited after the date of that statute. The issue has become one of great importance in the Irish Free State, where very ancient fisheries have been found to have been invalid under this rule, despite centuries of user.<sup>2</sup>

The Crown also owns whales and sturgeon captured within territorial waters, as opposed to the open sea. It is recorded under Edward II that a whale reached Greenwich, but was duly despatched by the constable ; at the beginning of George V's reign a sturgeon caught in Cardigan Bay was duly offered to the king. White swans swimming in open and common rivers, provided they are wild and unmarked, belong to the king.

The Crown is also entitled to fines, forfeitures and recognisances and legal fees, and in war time droits

<sup>1</sup> Sir G. Hill, *Treasure Trove* (1936).

<sup>2</sup> *Moore v. Attorney-General*, [1934] I. R. 34.

of Admiralty may yield a substantial revenue. The revenues formerly derived from vacant episcopal sees, from first-fruits and tenths, have been renounced and through the Ecclesiastical Commissioners and Queen Anne's Bounty have been made available for ecclesiastical purposes only.

In addition to these revenues, which were essentially prerogative, the Crown possessed certain hereditary revenues which were conferred by statute for special reasons. Thus on the restoration the landowners who held by military tenure were astute enough to secure the abolition of the feudal dues based on that tenure, which Charles I had used as a source of revenue in his struggle with Parliament. A compensation had, of course, to be given, and the cavaliers hit on the ingenious plan of making the whole community pay for the boon conferred on them. Accordingly they granted the king a hereditary excise on beer, ale and cider, and certain wine licences. In 1685 the post office revenues, representing an old monopoly of the Crown, were settled on the king, though part was diverted in 1787. Further, by statute the king enjoyed the  $4\frac{1}{2}$  per cent. duties derived from certain West Indian islands. Of these statutory revenues only the post office revenues are still levied, and they under the surrender mentioned below are paid into the consolidated fund.

## *2. The King's Civil List and other Property*

From the time of George III an effort was made to bring greater simplicity and certainty into governmental finance by arranging for the surrender by the

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king of his hereditary revenues in return for a fixed civil list of £800,000 a year. But this sum was not merely for the royal expenditure of a personal character; from it fell to be defrayed the salaries of the civil service, of judges, and of ambassadors, and certain pensions. In 1792 the hereditary revenues of Ireland were also transferred. Like surrenders were made by George IV, and William IV completed the surrender by handing over the hereditary revenues of Scotland, except the Principality, and the West India duties. Queen Victoria made a similar surrender, and the last elements of public expenditure still borne by her predecessor, £75,000 for pensions and £10,000 for secret service, were removed. The surrender is now so customary that it would be difficult for the Crown to claim to be free from the obligation of accepting it,<sup>1</sup> though the lands which brought in £89,000 when George III surrendered them first of all now are worth £1,350,000 a year. The surrender is made for the reign and six months thereafter, thus giving ample time for the adjustment of the issue between the king and his people. There can, of course, be no doubt that it would legally be possible for the king to decline to renew the bargain, but equally is it clear that constitutionally the only question that can arise is the terms on which the surrender should be made.

In the case of Queen Victoria the total sum allowed was £385,000 a year, and no doubt the sum seemed to Radicals large, for Lord Brougham in 1850 had to be rebuked for seeking to ascertain how much of the

<sup>1</sup> Edward VIII surrendered them forthwith; see Ridges, *Constitutional Law of England* (ed. Keith), pp. 383, 386.

savings of £38,000 on the civil list for the year ending April 5, 1850, was on the item salaries, pensions and allowances. He adduced the constitutional principle that the sovereign should not be permitted to acquire wealth but should remain dependent on Parliament, but was reminded that, while enquiries into the civil list were recorded, they had been held when the civil list was in debt and further assistance was being asked for. In 1871 the Queen was criticised on the ground that her civil list was excessive, that her seclusion enabled her to save as much as £2,500,000 in addition to Mr Nield's bequest of £1,500,000—really £500,000—and the Prince Consort's £1,000,000. But criticism was not vocal in the Commons; Sir C. Dilke's motion for enquiry in 1872 was defeated by 276 votes to 2.<sup>1</sup> The Queen, however, was unappeased, and the alleged republicanism of Sir C. Dilke added to her dislike. In 1880 she had her revenge; not only was he required to explain his views on the republic and the civil list, but he was only admitted to the lowly rank of Under-Secretary for Foreign Affairs.<sup>2</sup> Moreover in 1882 his refusal to vote for an annuity to Prince Leopold was declared by the Queen to debar him from ever being a cabinet minister, and the cabinet post later chosen for him was the Local Government Board, where he was not likely to be in contact with the Queen. She in fact never forgave opposition to votes for the royal family, least of all, of course, the reduction of the total destined for the Prince Consort.

Yet Parliament was not ungenerous. It gave the

<sup>1</sup> *Letters*, ser. 2, ii. 100, 164–9, 172; 210 *Parl. Deb.* 3 s., 253 ff.

<sup>2</sup> *Ibid.*, iii. 97, 290–2, 390.

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Prince of Wales on his marriage £40,000 a year, in addition to which he had the revenues of the Duchy of Cornwall, which rose by the end of the reign to £60,000 a year; in 1889<sup>1</sup> £36,000 a year was accorded for his children, and it made grants to Prince Arthur, Prince Alfred and Prince Leopold and their sisters. On the advent to office of Edward VII the civil list was increased to £470,000, with the privilege of franking letters and sending telegrams on public business free of charge. Queen Alexandra was given on widowhood an annuity of £60,000, the Duke of York £40,000 with the Duchy, and £10,000 a year to the Duchess, while £6000 each was provided for the king's daughters, the Princesses Louise, Victoria, and Princess Charles of Denmark.

The subject was investigated by a committee of 23 members of Parliament as usual. They struck out the official salary of the Master of the Buckhounds, for there was a good deal of feeling regarding the royal hunt, and fixed the joint purse of king and queen at £110,000, of which the queen's share was stated to be £33,000. With additional pensions and annuities the total came to £543,000, and the sum remained fixed during the reign. An issue of some interest was raised in 1907, when the Treasury suggested that the king should bear the cost of official visits from royalties, but a very indignant refusal was accorded to this proposal, on the ground that it had been clearly understood in 1901 that the government would pay. An attempt by the Treasury to secure that the Foreign Secretary should have a

<sup>1</sup> *Letters*, ser. 3, i, 510, 514 ff. Mr Gladstone aided the vote; 116 votes were cast against.

voice in deciding what visits were such as the state should pay for was tartly rejected by the king, and so the matter was left.<sup>1</sup>

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The accession of George V necessitated further consideration, and the same total was granted. It was apportioned as follows: staff and pensions, £125,800; maintenance of the royal household, £193,000; works, £20,000; royal bounty, £13,200<sup>2</sup>; privy purses of their majesties, £110,000, with the balance unassigned. There were further accorded £10,000 for each son except the heir apparent, whose Duchy would serve to maintain him, and an additional £15,000 on marriage, with £6000 for the Princess.

In the case of Edward VIII the position differs in certain important points from that under his father. The King holds not merely the Duchy of Lancaster which George V had, as its revenues are hereditary revenues of the Crown, but the Principality of Scotland and the Duchy of Cornwall also. These latter sources of revenue appertain to the king unless there is an heir apparent being his son, when they fall to him. He has these revenues because they were never included in any of the surrenders made, though Lord Brougham in 1837 argued that they were really the property of the people. The fact that the King is unmarried is also important. Hence the Civil List Act, 1936, contains certain new provisions. The civil list is fixed at £410,000, allocated as follows: privy purses, £110,000; salaries and retired allowances, £134,000; expenses of the household, £152,800; and royal bounty, alms and special services, £13,200.

<sup>1</sup> Lee, *Edward VII*, ii. 28-30.

<sup>2</sup> Ridges, *Constitutional Law of England* (ed Keith), p. 120.

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So long, however, as the King is unmarried, the first two items will be reduced by £33,000 and £7000 respectively. The Treasury assumes the cost of buildings, and the salaries of the Treasurer, the Comptroller and the Vice-Chamberlain of the Household, these three offices being now the essential political offices of the household. A considerable saving of public money will be secured by the decision of the King to use the revenues of the Duchy of Cornwall in relief of the taxpayer. From these revenues £25,000 a year will be added to the income of the Duke of York in recognition of the extra duties which will fall on him as heir presumptive, and the balance, at present about £79,000, will be available to meet in the first place the privy purse, and as regards the balance the salaries of the household. In the event of the King's marriage provision for a widow and children is made on the same basis as in the case of the family of George V. But special arrangements are made in the event of the birth of a Duke of Cornwall for the application of the revenues of the Duchy during his minority, including a payment to public funds. The generosity of the King was much appreciated by the Commons, though the desirability of a complete surrender of Crown revenues was suggested on behalf of Labour. The saving immediately operative is £155,900.

The king has also private estates, obtained by will or by acquisition *inter vivos*, whether by donation, exchange or purchase from revenues saved from the Duchies or the civil list. These private estates he may freely dispose of by will or during life. Unlike Crown estates proper, these properties are subject to

rates, taxes and other burdens, and in respect of transactions affecting them statutory provision exists for bringing suit against or by specified persons.

Edward VII had also to deal with the question of royal palaces, for the Queen had intended that Balmoral Castle, her highland home, and Osborne House, her favourite residence, should be kept as family possessions. As, however, the king had Buckingham Palace and Windsor Castle and Sandringham, he determined, while keeping Balmoral, to dedicate Osborne to public purposes, and therefore, while part serves as a memorial of the Queen, part is a naval and military hospital and part has been used as a naval college.<sup>1</sup>

Expenditure falling in the departments of the Lord Chamberlain, Lord Steward and Master of the Horse is audited by an officer appointed by the Treasury, and an allowance of the accounts by the Treasury and a sign manual warrant constitute a full discharge under the Civil List Audit Act, 1816.

It should be added that the so-called civil list pensions, which up to £1200 a year can be granted by the king on the advice of the Prime Minister, do not fall now on the royal civil list, but are charged on the consolidated fund. They are available to persons with just claims on the royal beneficence, or who by personal services to the Crown, by performance of duties to the public, or by useful discoveries in science, or by attainments in literature and the arts, have merited the gracious consideration of their sovereign and the gratitude of the country. In fact the pensions are often allocated to the relatives of such persons when left in indigent circumstances. The decision

<sup>1</sup> Lee, *Edward VII*, ii. 19, 21.



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lies with the Prime Minister, though of course suggestions from the king are possible, but the value of the award is enhanced to the recipients by the fact that they are approved by the king. An effort was vainly made in 1936 to secure the increase of the inadequate total, the proposal being plainly justified by reason of the decline in the value of money and the greater number of suitable beneficiaries, but it was negatived by the Chancellor of the Exchequer on wholly inadequate grounds, showing his curious indifference to the less material sides of human life.

The appointment of Poet Laureate also rests with the Prime Minister, though the choice has to be approved by the Crown. The appointment of Alfred Austin as Poet Laureate naturally discredited the Prime Minister and made the poet ludicrous, and it was not surprising that in 1901 it should have been suggested in the House of Commons that the office might well be deemed to have been personal to the late sovereign and to be vacant, in which case it might well have been dropped. But the king thought that, as there was no salary attached (this was a mistake, though the sum is only £99), the office might be continued, though he later called his Prime Minister's attention to the stuff that was written.<sup>1</sup> On the Poet Laureate's death it was rather unwisely decided to maintain the office in being,<sup>2</sup> though no such unhappy appointment has been repeated. It is clearly impossible wisely to fill such an office.

<sup>1</sup> Lee, *Edward VII*, ii. 53; cf. *Letters*, ser. 3, iii. 24, on the "Raid" poem.

<sup>2</sup> Oxford, *Fifty Years of Parliament*, ii. 210 ff.

### 3. *The King and Public Revenue and Expenditure*

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From historical usage the revenue and expenditure of the country are held essentially to be those of the Crown, and certain formal matters still have to be performed in the royal name. By a self-denying ordinance the House of Commons denies to individual members the right to propose money votes; the House will consider proposals for expenditure only if recommended by the Crown, and this formal recommendation is duly conveyed to the Commons as required. For expenditure also the first step is an order signed by the king<sup>1</sup> and countersigned by two lords of the Treasury, authorising action by the Treasury to enable the Bank of England to put at the disposal of the departments such sums as Parliament may have made available. Messages from the king are also requisite for proposals for special grants to officers for distinguished services. But all these and like matters are essentially done by the king on ministerial advice and without the necessity of personal intervention. In the event of grave difficulties arising between the king and ministers as to financial business the remedy available to the king would not be refusal to give formal authority but the demand of a dissolution to test the will of the electorate, and on failure the dismissal of ministers.

<sup>1</sup> Anson, *The Crown* (ed. Keith), ii. 372, 373.

## CHAPTER XVII

### THE KING AND THE EMPIRE

#### 1. *The Victorian Empire*

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THE Empire as Queen Victoria received it from William IV was in a sorry condition. Her uncle was quite incapable like his ministers of perceiving any solution for the impasse which had manifested itself in Canadian affairs, and which was to produce rebellions in both Canadas. His only contribution to the solution had been the utterly negative one of refusing to part with the hereditary revenues of the Crown, or to allow the Councils to be made elective, or the introduction of responsible government. The contrast between the scene at the inception of her reign and at the close is amazing, but the initiative in securing this result was not that of the Queen, nor did she ever regard herself essentially as the head drawing together varied lands and peoples in a common nationality. She was proud as time went on of the Empire, she accepted expansion and deprecated any surrender of territory, but her attitude was normally receptive, and for that reason her relations with ministers fortunately lacked the brisk and sometimes bitter skirmishes which were fought over her favourite topics of foreign affairs.

In 1837 the British colonies fell legally into two categories, settled and ceded or conquered. Under

the constitution the Crown possessed as regards the former only rights compatible with English law which British subjects carried with them when they settled overseas. It therefore could merely confer on such a colony by prerogative a constitution on the British model, with an elected lower and a nominated upper house, and it could legislate for such a colony only with the advice and consent of that legislature. If, therefore, circumstances forbade the provision of such a constitution forthwith, as in Australia and New Zealand, recourse must be had to Parliament for power to establish a limited constitution in which power might be given to legislate by a nominated or partly elected Council. Colonies by conquest or cession, on the other hand, fell under the prerogative power without limitation: any kind of constitution from the British model to the exclusive authority of the Governor to legislate as well as administer might be accorded. But the law was that, if a representative constitution was once given, then it could not be cancelled by the prerogative, and such colonies, of which Canada was the most important, fell under the same regime as settled colonies.

Though, however, the exercise of legislative power differed in the various colonies, the executive government remained in the hands of the Crown. The result was that in Canada, where there were representative legislatures, these bodies came into hopeless conflict with the executive. The position was analogous to the troubles in England between Parliament and the Stuarts, but in the case of the colonies there stood behind the executive the strength of the British government, and concession therefore

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could not be forced by withholding supplies or refusing to maintain military forces. The deadlock had just culminated in bitter unrest, and it was the genius of Lord Durham, sent out as High Commissioner to deal with the aftermath of the futile rebellions in both Canadas, Upper and Lower, that discerned that the solution lay in surrendering the control of the exercise of the powers of the Crown in matters of local as opposed to those of imperial concern to ministers responsible in the British style to the local Assemblies. This solution was in theory rejected by Lord John Russell on the simple ground that the Crown could not have two sets of advisers, local and British, for there could be no division of power by distinguishing local and imperial interests. But in practice it was conceded by instructing the Governor of the newly united Canada to act on the advice of officers who could command the support of the Assembly, and this principle was soon extended to Nova Scotia, New Brunswick, Prince Edward Island, Newfoundland, and the Australian colonies, New South Wales, Tasmania, Victoria and South Australia, and to New Zealand.<sup>1</sup>

In this vital decision the Queen had no part, though of course the power of the Crown was vitally affected. William IV had been able to discuss Canadian policy with his ministers, to declare his own views and, subject to the possibility of resignation, to enforce them. In the new scheme of things the Queen could have influence <sup>2</sup> only in respect of the matters which still were reserved to the imperial government to

<sup>1</sup> Keith, *Responsible Government in the Dominions*, i. 1 ff.

<sup>2</sup> For a suggestion as to the powers of a Governor-General to dismiss ministers in Canada (1893), see *Letters*, ser. 2, ii. 291-3.

control, the conduct of foreign affairs affecting the colonies, the disallowance of legislation, and various matters of trade relations and emigration. All local matters would be disposed of by her representative on local advice. It may be doubted if the Queen would have been happy had she realised what was being done, but the system grew up when she was but a girl, and even after that her interest in foreign affairs doubtless dimmed concern with colonial issues. Even the confederation of Canada evoked no enthusiasm, though she decided on Cabinet advice the style of Dominion of Canada.<sup>1</sup> Perhaps the grudging reception of her choice of Ottawa as the seat of government in 1857 had dimmed her perception of this birth of a new kingdom. The suggestion of that style by Sir J. Macdonald was negated by the fears of Lord Derby in deference to United States susceptibilities. It was rather a pity that the opportunity was not taken formally to recognise that, as Sir J. Macdonald asserted, the Dominion was no longer a colony but a kingdom in subordinate alliance.

The creation of the Commonwealth of Australia also passed without royal intervention; the Queen disliked the term Commonwealth, but accepted it despite its republican associations in her mind, on Mr Chamberlain's assurance that it was chosen by Australians in rivalry of Canada.<sup>2</sup> She also consented to spare as first Governor-General her Lord Chamberlain. In both confederations, of course, the extent of royal power delegated to local control was on the most extensive scale, but the Queen seems not to have

<sup>1</sup> *Letters*, ser. 2, i. 394.

<sup>2</sup> *Ibid.*, ser. 3, iii. 566; as to Governors in the States, 576-8.

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been concerned at this thought. Nor did she take exception to the extension of responsible government in 1872 to the Cape of Good Hope, in 1893 to Natal, and in 1890 to Western Australia. The separation of Queensland from New South Wales in 1859 had already added to the area of self-government and perpetuated her name.

The acquisition of other colonies and the growth of protectorates were accepted without hesitation by the Queen. Over the latter power was exercised in the form of Orders in Council under Acts consolidated as the Foreign Jurisdiction Act, 1890, but there is no evidence that in the details of the constitutions given she was much interested. She felt that increase of Empire, as when New Guinea was annexed, added to British burdens, but that the natives would profit from British rule and so the burden must be borne; to protect the poor native and advance civilisation was for her the mission of Great Britain.<sup>1</sup>

The Queen was in favour of the doctrine of trusting the man on the spot, and this brought her into the controversy which raged over Sir Bartle Frere's conduct of relations with the Zulus, which were marred by Lord Chelmsford's military failings. Lord Beaconsfield felt that matters must be placed in more effective hands, and he sent out Sir Garnet Wolseley to act as High Commissioner for South-East Africa. The appointment was far from pleasing to the Queen, who noted in her journal that her Prime Minister had found it necessary to make the announcement in the House of Commons before Whitsuntide, for-

<sup>1</sup> *Letters*, ser. 2, iii. 524-5. She refused to change the name of Fiji (ii. 359). For her interest in natives, see ii. 360.

getting that he had not answered her cypher, pressed as he was by opposition in the Commons; Lord Beaconsfield was, it may fairly be suspected, entirely diplomatic.<sup>1</sup> She naturally disliked the retrocession of the Transvaal,<sup>2</sup> ignoring the fact that the annexation had been made in the belief that the people would acquiesce, but neither in that matter nor the contemporary and subsequent events in Egypt was she able to make her policy effective. Her energy, however, was unfailing; one day in 1882 brought the hapless Mr Childers no less than seventeen communications regarding the war proceedings in Egypt. Her interest in Gordon made her prescient of his fate in the Sudan and excuses in part the vehemence of the denunciation of her ministers on his death. She reminded her government of that episode when urging them not to refuse Lord Wolseley's suggestions for the control of the Sudan, and with some effect, for, though Wolseley was not made Governor-General as he suggested, the Khedive was instructed to secure that all civil officers treated his authority as commander-in-chief as supreme. In 1893 her pressure resulted in the despatch of an additional battalion to Egypt.

As has been mentioned above, her common sense in foreign affairs enabled her to advise moderation in the business of Fashoda, and this no doubt helped the government in its final liquidation of African interests with France which left Nigeria in British hands. In the same spirit of moderation she deprecated any idea that the world at large should be allowed to have the impression that we will not let anyone but our-

<sup>1</sup> *Letters*, ser. 2, iii. 24.

<sup>2</sup> *Ibid.*, iii. 204, 205.



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selves have anything, a doctrine which reconciled her to the Russian seizure of Port Arthur, for which Wei-hai-wei was poor compensation.<sup>1</sup> To her credit must be put her wise advice to Lord Beaconsfield in 1879 when the Zulu and the Afghan wars together taxed seriously British forces. With the Empire to guard there must be continual risk of war and it was folly to allow the military and naval forces to be unduly depleted, thus causing great trouble and expense in improvisation.<sup>2</sup>

Men of outstanding character interested her. Cete-wayo of Zululand in 1882, and Cecil Rhodes in 1891 and 1894,<sup>3</sup> presented to her vivid glimpses of conflicting elements in her African territories. In the discussions leading up to the Boer war she was hampered by failing sight and weight of years from displaying her usual critical judgment. But she felt confidence in her Prime Minister and in Mr Chamberlain, and she devoted herself to encouragement of her people in the war, inspected troops, condoled with the relatives of the fallen, visited the wounded, entertained the wives and children of non-commissioned officers, and drove through the streets of London to exhibit herself to a people which, save for the jubilees of 1887 and 1897, had almost forgotten her appearance. Her visit to Ireland was a thankoffering for the recruits that country freely gave, and the strain undermined fatally her health. But her last full audience was appropriately with Lord Roberts to tell her of the progress of the war. Nor must it be forgotten that in 1892, when the fate of Uganda was in the balance,

<sup>1</sup> *Letters*, ser. 3, iii. 238.

<sup>2</sup> *Ibid.*, ser. 2, iii. 37.

<sup>3</sup> *Ibid.*, ser. 3, ii. 13, 455.

her voice was raised aloud to impress on Lord Rosebery that, while there were doubtless great difficulties in Uganda, the difficulties of abandoning it were greater.<sup>1</sup>

Doubtless the pageantry of the jubilee celebrations went far to associate her in the mind of the public with the immense area and variety of her oversea dominions. Including India they had grown from 8,114,035 square miles with a population of 96 millions at her accession to 12,111,310 square miles with a population of 240 millions at her death. Nor can she have failed to feel pride in her headship of such amazing realms and in the homage of Indian princes and chiefs of ancient lineage and martial fame. But of imperialism in a bad sense the Queen was singularly free, a result in part of her devotion to international affairs; she was Queen before she was Empress.

But her interest in India was sincere. The transfer to the direct rule of the Crown in 1858 elicited a sharp struggle with Lord Derby over the principle of competition<sup>2</sup> as the mode of entry into the Civil Service and the apparent subtraction from her control of the European army formerly in the hands of the Company. But on the former head the ministry could not yield, and the principle was soon to be introduced in Britain itself. On the latter the matter turned out rather to be a question of form than of substance, but the form was settled to her content by an Act of 1861. She had, however, to acquiesce in the provision that the forces of India could not be used outside that country except with

<sup>1</sup> *Letters*, ser. 3, ii. 158. Lord Rosebery asked her to keep his reply secret as he was against the Cabinet.

<sup>2</sup> Keith, *Constitutional History of India*, pp. 198 ff.

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the approval of Parliament, though that limited the power of the Crown. On the other hand, such limitation was necessary, for otherwise the Crown might have evaded the restrictions of the Army Act regarding the numbers of men to be maintained. Even so, when Indian forces were sent to Malta during the Russo-Turkish imbroglio, the question of the constitutionality of their use was keenly debated in the House of Lords.<sup>1</sup> It is, however, characteristic of the energy of denunciation on the Queen's part of whatever she disapproved that Lord Derby treated her protests as a probable ground of resignation.

On the other hand, the best side of royal intervention was revealed in the influence exercised by the Queen on the terms of the royal proclamation announcing her assumption of direct sovereignty. She appreciated to the full the remarkable character of the situation and justly demanded that the document should "breathe feelings of generosity, benevolence and religious toleration and point out the privilege which the Indians will receive on being placed on an equality with the subjects of the British Crown, and the prosperity following in the train of civilisation."<sup>2</sup> Hence the not unjust description of the final result as "a perfect example of English as it ought to be written by a great statesman on a great occasion."

The title of Empress would no doubt then have appealed to the Queen, but it came only in 1876, and it may well be that Lord Lytton was right in emphasising its value, and the inspiration which it gave to the offers of the Indian princes to lend their forces for the

<sup>1</sup> Anson, *The Crown* (ed. Keith), ii. 205, 206.

<sup>2</sup> *Letters*, ser. 1, iii. 379, 389.

war in Afghanistan. That war proved, as was inevitable, a bone of contention between the Queen and ministers, for they definitely negatived the policy of holding Candahar, which ran counter to her desires. The Queen made the mistake of holding aloof from her ministry in these years, writing as little as possible and seeing them still less, and it is significant that, though she received at Balmoral Lord Hartington very graciously in October 1880, he found it impossible to induce her to talk of Candahar, and noted her unreadiness to discuss unpalatable subjects with her ministers.<sup>1</sup> The point is important, for the famous scene on January 5 at Osborne over the royal speech on the opening of Parliament turned on Candahar, and it is clear that it was mainly the result of the failure of the Queen to realise that the decision of the ministry to retire thence intimated in November was an essential part of their policy. If, therefore, Lord Hartington was in some degree to blame for the fiasco of the speech, he might plead that he had been only too willing to discuss the matter when at Balmoral, but that he could not insist on doing so in face of royal reticence.

The Queen in her later years started studying Hindustani with the aid of an Indian Secretary, a procedure which seemed to some critics unduly reminiscent of her relations with John Brown. It is possible that he had something to do with her rather curious attitude on the punishment of the murderers of Mr Quintin, the Commissioner of Assam, when sent to Manipur to instal a new ruler. The crime committed was dastardly in the extreme, and the

<sup>1</sup> *Journals and Letters of Viscount Esher*, i. 77.

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government of India showed extreme moderation. But the Queen was unhappy at the decision to execute the member of the ruling family responsible, and would gladly have disapproved the decision, but fortunately it did not rest in her power constitutionally to do so, the Government of India Act making no provision for royal exercise of clemency directly by the Queen. Her views then stressed the unpopularity of the Residents at Indian courts and contrasted the loyalty of the natives to the Crown as against their dislike of British rule.<sup>1</sup> But of course that was beside the mark in this case, for the Commissioner was in no way responsible for the incident, which arose merely from local intrigue and crime. But the Queen was convinced of the evil doings of Residents and impressed on Lord Curzon on taking office that he "must really shake himself more and more free from his red-tapist, narrow-minded Council and entourage. He must be more independent, hear for himself what the feelings of the natives really are, and do what he thinks right, and not be guided by the snobbish and vulgar, overbearing and offensive behaviour of many of our Civil and Political agents."<sup>2</sup> It is amusing to reflect how little the Queen herself knew of her own people, but it is fair to say that Lord Curzon was impressed by failure of courtesy in dealings with Indian princes, and that, while he tried to convert the latter from drones into busy benevolent autocrats, he also insisted that they should receive the signs of civility due to their rank if not to their virtues. This was a just policy, for the employment of military officers freely as political agents placed in that delicate office too

<sup>1</sup> *Letters*, ser. 3, ii. 55, 61.<sup>2</sup> *Ibid.*, iii. 251.

often men who regarded Indians from the complacent heights of racial superiority, an attitude unfortunately often favoured by the demerits of those to whom they were accredited.<sup>1</sup>

It may be added as a sign of the Queen's concern for the princes that as early as 1859 we find her concerned regarding the manner in which complaints against them were dealt with. She accepted the new policy of Lord Canning under which assurances were given to Hindu and Muhammadan rulers alike against the possibility of annexation owing to a lapse in the succession, thus rewarding them for their loyalty in the mutiny, and precluding the danger of annexation as advocated by Lord Dalhousie and the East India Company.<sup>2</sup> She suggested further that, if complaints were made of misgovernment, they should be investigated semi-judicially, and it may be from this suggestion that in the case of the Gaekwar of Baroda in 1873-5 formal inquiry took place. It does not appear that she was specially interested in that actual decision, though of course it received her approval. The case indeed was conclusive, and the new policy of preserving the states was manifested in the fact that annexation was waived and a new Gaekwar installed and instructed for the post. So in 1881 the ruler of Mysore was installed, after the state had been regenerated by fifty years of British control.

It is characteristic of the best side of the Queen that she fully approved of the minute recorded in the *Gazette* by Lord Lytton and his Council on the

<sup>1</sup> Cf. Holkar's case in 1899 (*Letters*, ser. 3, iii. 386). Both he and his successor had to resign, the latter in 1926.

<sup>2</sup> Keith, *Constitutional History of India*, pp. 213, 214.

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disgraceful action of a British barrister who by rough treatment killed a native, and was only fined fifty rupees by the magistrate.<sup>1</sup> The failure of British opinion in India to support the Viceroy was as regrettable as later was the abuse directed at Lord Curzon because of his severity in punishing crimes committed by soldiers in British regiments.

It is also characteristic that the Queen urged that honours should more freely be awarded to Indians, and at her personal urging this was done both in 1896 and 1898,<sup>2</sup> and that Indian troops were by her desire included at her jubilee in 1897.<sup>3</sup> Her willingness to receive Indian princes was another trait which won her affection and esteem. If perhaps she underestimated the self-sacrificing work of many British subjects in India, that was of less consequence.

## 2. *Edward VII and the Empire*

In the main the king was too interested in Europe to devote much concern to his Empire ; if he had any vanity it lay not in regarding himself as the crown of the great Imperial fabric, but as the great diplomatist who could arrange the affairs of Europe with his skill. It is remarkable that at the outset of his reign he nearly made a serious blunder. The Queen had consented that the Duke of Cornwall should open in May 1901 the first Parliament of the Commonwealth of Australia, but the king was unwilling to part for so long a period with his son, and the authority of the

<sup>1</sup> *Letters*, ser. 2, ii. 482.

<sup>2</sup> *Ibid.*, ser. 3, iii. 109, 246 ; cf. 449, 562.

<sup>3</sup> *Ibid.*, iii. 134.

Prime Minister had to be exerted to secure that faith was kept. In 1906 the Canadian Parliament pressed for a visit that they might express personally their profound admiration for his kingly virtues and truly humanitarian deeds which had placed him first among the great sovereigns of the world. Not even such exquisite flattery could win him to leave Europe, nor would he grace Quebec by his presence for the tercentenary celebrations of 1908, though happily he could send his son. Strange that he should have thrown away such an opportunity of attaching Canada to his throne and person.<sup>1</sup>

His reactions to colonial issues have already been noted, including his suspicion of the withdrawal of Chinese labour, his acceptance of responsible government for the Transvaal, and of the union of the colonies in 1909, with safeguards for the natives of the protectorates and Basutoland. India interested him in regard to the Anglo-Russian entente, for that affected foreign policy, and, despite the private communications which like his mother he received from the Governor-General, he was clear that the feelings of the Amir of Afghanistan must not be allowed to block the pact. For the rest he showed comparatively little concern with Indian affairs, save in so far as they touched on external relations or involved personal issues. The invitation of the Viceroy to be crowned Emperor at Delhi he declined, but approved a durbar in January 1903 at which the Duke of Connaught represented him, and the Prince and Princess of Wales visited India in 1905. The durbar, however, did not pass off without a vexatious

<sup>1</sup> Lee, *Edward VII*, ii. 18, 521, 522.



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episode. Lord Curzon held that announcement of remission of taxation would most appropriately mark the auspicious occasion,<sup>1</sup> but Lord G. Hamilton was opposed, and a personal appeal to the king merely led to a reiteration of the refusal on the advice of the Cabinet. The king, however, deprecated any idea of resignation and Lord Curzon, much mortified, yet obeyed the royal will. In the same spirit of loyalty to ministers the king resolutely opposed the treaty of 1904 made for the Indian government by Col. Younghusband, in so far as it involved the taking possession for 75 years of the Chumbi valley, on the score that it contradicted express assurances given by Lord Lansdowne to Russia; he accepted, however, the value of the general conduct of the expedition by its chief, and it was on his urgent request that the K.C.I.E. was awarded to that officer.<sup>2</sup> The same spirit of desire for peace marked his acceptance of the acquiescence of ministers in the unsatisfactory relations prevailing with the new Amir, whose reception in India in 1907 was marred in effect by his indignation at his treatment in the Anglo-Russian negotiations. But the king reminded Lord Minto on September 10, 1908, that war at that juncture would be a national misfortune and must be avoided, an interesting and useful hint of the much wider issues which would be affected by even a minor war.<sup>3</sup>

In the great controversy between Lord Curzon and Lord Kitchener as to the duties of the Commander-in-Chief the king did not intervene, supporting his ministers. The result was unfortunate; the Com-

<sup>1</sup> Lee, *Edward VII*, ii. 366, 367.

<sup>2</sup> *Ibid.*, ii. 369-71.

<sup>3</sup> *Ibid.*, ii. 372-5.

mander-in-Chief was henceforward so overburdened with work that he failed lamentably in the Mesopotamian crisis to effect his functions, and the surrender to Lord Kitchener must be regarded as the root of the disasters experienced by the Indian army and their sufferings. But the king liked Lord Kitchener, and the Liberal ministry which followed shares the discredit of the error with its prime authors Mr Balfour and Mr Brodrick, who very much to their discredit blocked the royal desire to confer an earldom on the Viceroy, who when all was said and done had worked brilliantly and whole-heartedly for the good of India. It is to his credit that despite his disappointment he loyally obeyed the king's wishes and dropped controversy. Yet the question arises whether in this case royal influence was wise. The issue was one of fundamental importance and Lord Curzon by steadfast pressure might have exposed the fallacies of Mr Balfour and Mr Brodrick, one of the least competent of ministers in each office he held.<sup>1</sup>

In the controversy which marked the years 1907-9 the king was markedly conservative. He noted with regret the refusal of the government to meet the request of the Commander-in-Chief and the Indian government for a press law dealing with the press in relation to the army, and in fact the government itself, despite Mr Morley's desire for liberty, was compelled to proceed to rather drastic legislation. But he found both Lord Minto and Lord Morley united in the matter of adding to the Viceroy's Council an Indian, Mr Sinha. The idea was repugnant to the king, who felt as strongly as anyone in India the

<sup>1</sup> Keith, *Constitutional History of India*, pp. 172, 173, 190.

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danger of admitting to the *arcana imperii* any Indian, and the Prince of Wales then shared his view. He insisted on the arguments that, if a Hindu were added, a Muhammadan would also have to be added, and that the Indian princes would resent an Indian "who would be very inferior in caste to themselves" sitting in the Council. He feared thus a leakage of vital information, and was very indignant when this was countered by Lord Minto, who pointed out that natives already copied documents of a secret nature. The king was, of course, badly informed on matters of caste; Indian princes belong to various castes, and a Brahmin is of purer caste than most princes. His other arguments were brilliantly met by Lord Morley, who reminded him of the Queen's proclamation that race and colour should form no bar to employment; the Cabinet unanimously urged acceptance, and the king acquiesced: "owing to the great pressure which has been put upon me by my government, I unwillingly assent, but wish that my protest should remain on record, as I cannot bring myself to change my views on this subject."<sup>1</sup> The attitude is interesting, and seems now to belong to an era far remote, for neither Lord Morley nor Lord Minto had then any intention of introducing responsible government into India. They were merely concerned with strengthening the British government in India by securing the aid of the active co-operation of the upper and middle classes in the face of the growth of sedition and revolutionary propaganda.

At the moment of his death the king had not abandoned his hope to secure Lord Kitchener as

<sup>1</sup> Lee, *Edward VII*, ii. 385-9.

Governor-General as opposed to Sir C. Hardinge, Lord Morley's preference, who was appointed by the new king. On November 1, 1908, the fiftieth anniversary of his mother's generous message to the people of India on the assumption of royal government, he addressed a greeting in words part chosen by himself which was read at a great durbar at Jodhpur.<sup>1</sup>

### 3. *George V and the Dependent Empire*

It fell to George V to witness and to assent to the widest reconstruction of Imperial relations. For this he was prepared through his wide knowledge of his own dominions, for his tour to Australia in 1901, rewarded by the award of the style of Prince of Wales, had been followed by his Indian tour in 1905 and by his visit to Quebec in 1908. He had thus realised in a manner impossible without personal experience that the Empire had grown not merely in dimension but in fitness for constitutional development. It is not, of course, suggested that the king took personal initiatives in these matters. They lay outside his métier. His merit is that he accepted the advice of responsible ministers despite the natural objections which must have presented themselves to many of the changes in question.

In the colonial Empire the period was marked by the growth of the demand for self-government, which was naturally stimulated by the doctrine of self-determination as the right of peoples enunciated in theory, if not closely respected in practice, by the allied and associated powers. Hence the experiment,

<sup>1</sup> Lee, *Edward VII*, ii. 750-2.

which has so far failed, of giving limited self-government to Malta in 1921, followed by the revocations of 1930, 1933, and 1936, and the much more happy accord of self-government in 1923 to Southern Rhodesia. As a preliminary Southern Rhodesia was annexed to the Empire, as also was Kenya, thus definitely increasing largely the area of British soil. Ceylon in 1930 was given an unique form of government virtually by committees of the legislature. But the most notable feature was the advent of the mandatory system under the Treaty of Versailles and the Covenant of the League of Nations.<sup>1</sup> The Crown thus took charge of territories with full power of legislation and administration, but subject to definite conditions and to the duty of reporting to the Council of the League of Nations. This was a novel position for the Crown to adopt, but it was, of course, not seriously open to objection, for the conditions imposed in the case of the British mandates for Tanganyika, Togoland, and the Cameroons merely represented the best of British practice. In the case of Palestine the mandate was far more complex, for it imposed not merely the duty of aiding self-government but that of establishing conditions favouring the creation of a Jewish National Home. The latter condition renders it hard to permit self-government to be developed, but the desire to aid the Jews was one bound to appeal to the king in view of his father's many Jewish friends, and from the advocacy of the measure by Sir Herbert Samuel, a member of a great Jewish financial family. The scheme involves grave obligations and anxieties, and Arab intransigence foiled the king's original

<sup>1</sup> Keith, *The Governments of the British Empire* (1935).

approval of the grant of a Legislative Council in which Jews and Arabs might co-operate for the common good. The proposal was revived when the outbreak of disorder in 1929 showed the lack of full contact between the government and the people, but has not so far been made operative.<sup>1</sup>

In the case of Iraq His Majesty consented to enter into relations with that state virtually of alliance, and finally the state was admitted to full independence as a member of the League of Nations. The king was received in London by the sovereign with much distinction, and it was most unfortunate that news of the grave massacre of Assyrians in his absence should have accelerated his return home and resulted in his death. Some reparation for the ill-treatment of the Assyrians has since been made by British contributions towards their establishment in French mandated territory, or elsewhere.

Towards Egypt the king showed his constant interest. Indeed at one time the suggestion was mooted that the country might find a place in the British Commonwealth of Nations. Ultimately in 1922 Britain declared the independence of Egypt, subject to reservations for the security of British communications with India, for the safety of minorities and foreigners, and the Sudan. The king encouraged the progress of national reorganisation by showing friendship and courtesy to the sovereign, and favoured the efforts of 1927 and 1929-30 to secure a formal alliance. In 1935-6 the issue was reopened after constitutional government had at British instigation been re-established by the king, and in

<sup>1</sup> Keith, *The Spectator*, April 3, 24, 1936.

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view of the grave danger to Egypt's independence shown by the assault of Italy on Ethiopia in defiance of the League Covenant, the negotiations were resumed with greater prospect of success.

In India George V exhibited his interest by visiting it in 1911 in order to be acclaimed Emperor at a great durbar at Delhi.<sup>1</sup> There he announced the policy of the change of capital to Delhi, and other important constitutional changes were at the same time announced with royal authority ; some criticism was expressed at the matter thus being connected with the name of the King-Emperor and so rendered difficult to criticise. But the use of the imperial name in appeals to Indian loyalty in the war bore abundant fruit in the general response, and personal feeling induced the most adequate return from the Indian princes, who provided their forces and money in generous measure. Many rewards were given with the king's approval at the close of the war, and the Nizam of Hyderabad was allowed the style of Exalted Highness in addition to that of Faithful Ally.

In the political sphere the king sanctioned the most far-reaching changes, which Edward VII would have regarded as impossible. On August 20, 1917, was announced a programme leading up to responsible government within the Empire, and in due course this was embodied in the Government of India Act, 1919, based on the report presented by Mr Montagu and Lord Chelmsford. A further step of great importance was the Government of India Act, 1935, shortly to become operative.<sup>2</sup> Under it the king

<sup>1</sup> Keith, *Constitutional History of India*, pp. 232 ff.

<sup>2</sup> *Ibid.*, pp. 319 ff.

assented to the vital diminution of authority in India, since it provides for responsible government in the provinces, subject to certain safeguards for good government, and for a minor measure of responsibility in the federal government. Defence and foreign relations still remain in the hands ultimately of the king advised by the Secretary of State and the Cabinet. It was natural for the king to regard with some hesitation a transformation so vital, for he had originally shared the hesitations of his father as to Indian reform. But it is characteristic that he rose superior to his doubts and gave full assent to the proposals of ministers. He also lent his sympathy to the protracted proceedings of the Round Table Conference with whose aid the scheme was worked out.

A vital element in the project was the acceptance by the princes of federation. One incentive to this was derived from the reassertion of the full extent of the paramountcy of the Crown by Lord Reading with the assent of the king in the controversy with the Nizam over the future of Berar. It was laid down that the final judge of the ambit of paramountcy must be the Crown itself, and this doctrine has tended to strengthen the willingness of the princes to accept federation if they can thus secure that the paramount power shall interfere less energetically in their local affairs. In any case the princes have successfully contended that the relations between them and the Crown must remain direct, and that in such matters the king must be advised by the British government, not that of India. The princes owe allegiance to the king, and their position in that essential resembles that of subjects, but



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their territory is not British nor their subjects subjects of the king. The position is anomalous, but it had the essential result of placing a very close connection between the king and the princes. The king welcomed the decision of the ministry in 1919 to set up a Chamber of Princes in which the rulers can co-operate on issues of common interest. The decision to do so was historic, for it marked the passing away of the old epoch when any communication between the princes was regarded as illegitimate. The special relation between the princes and the king has difficulties as well as advantages, but it ensures for any representations they may make the most careful consideration by the British government.

It is naturally the aim of the British government with the support of the royal influence to secure that as many princes as possible shall join the federation, thus securing the presence in the federal legislature of a solid Conservative bloc likely to counteract the revolutionary tendencies of the Congress party, which believes in the attainment of complete independence, and the termination of any link between Britain and India. There is no natural connection between Congress and the princes, for Congress holds that they are anachronisms and that their government is oppressive. The Crown, however, has always retained and has frequently exercised under the late king the right and duty of intervening in the government of any state where anarchy is threatened.

The king's interest in India was signally displayed when he commissioned the Duke of Connaught on his behalf to be present at the opening of the new Legislature of India under the Act of 1919. The occasion

was made memorable by the touching words with which the last surviving son of Queen Victoria concluded his address, after he had referred to the shadow cast by Amritsar over the fair face of India and the deep concern felt by the King-Emperor over the terrible chapter of events in the Punjab: "As an old friend of India, I appeal to you all, British and Indians, to bury along with the dead past the mistakes and misunderstandings of the past, to forgive where you have to forgive, and to join hands and to work together to realise the hopes that arise from to-day."<sup>1</sup> The king issued also a proclamation of December 23, 1919, and sent a message in 1921 to the Chamber of Princes which are worthy to be set beside the proclamations of the Queen in 1858 and that of Edward VII in 1908.

In the selection of Governors-General the king had to make one important decision. The choice of Lords Chelmsford, Irwin, Willingdon, and Linlithgow was in the normal line; all were men of recognised types. But much courage was needed in holding that Lord Reading was a suitable selection in 1921, for he had risen to high rank from humble origins and was not a Christian but a Jew, a religion held in no high honour in India. The king might unquestionably have declined to accept the recommendation, but he doubtless acted with wisdom in accepting it. The appointment was not, perhaps, an unqualified success, nor in any case was it wise to put it forward, but the Prime Minister had been on close personal terms with Lord Reading, and Mr Lloyd George was not forgetful

<sup>1</sup> Keith, *Speeches and Documents on Indian Policy*, ii. 335-43; February 9, 1921.

of friends who had in early days been of decisive help.<sup>1</sup>

It remains to add that the Act of 1935 increased greatly the formal place of the Crown in the Indian constitution by sweeping away the doctrine of 1858, which vested control in the Secretary of State for India in Council. That mode of dealing with the question followed from the transfer from the Company to the Crown, but it was clearly objectionable on principle, and the disappearance of the Council as such was the proper occasion for altering the terminology, and making it clear that all government in India is vested in the Crown, subject only to certain rights in internal matters of the princes.

#### 4. *The Crown and the Dominions*

In the case of the Dominions a vital change of relations was effected with the consent of the king. The Imperial Parliament had hitherto maintained unimpaired its sovereignty over the whole of the Empire, the king had appointed Governors-General on the advice of his British ministers, the king had retained the power to refuse assent to Bills passed by Dominion Parliaments but reserved by the Governors-General for royal assent; the final appeal from the highest courts in the Dominions had lain to the king in Council. In external affairs the king acted solely on the advice of British ministers, however deeply the Dominions might be affected, though the wishes of Dominion governments formed the basis of the advice tendered. The powers of the Crown

<sup>1</sup> For his merits, see Fitzroy, *Memoirs*, ii. 763, 765, 776.

were doubtless closely limited in actual exercise by consciousness of the growth to full autonomy of the Dominions, but they existed in law, and it was impossible to say to what extent they might not be exercised in practice. As late as 1910 the shipping legislation of New Zealand was refused royal assent, and it was only in 1911 that full right of action as regards copyright was accorded to the Dominions. In 1907 a Merchant Shipping Conference actually resulted in accord on continuing existing limitations on Dominion legislative power in that regard.

The services of the Dominions in the war were decisive of their status in internal as in external affairs.<sup>1</sup> It became now a mere matter of time for the anomalies existing to be swept away, and the process was resolved upon by the Imperial Conference of 1926 and made effective by the Statute of Westminster, 1931. The result of the Conference of 1926, supplemented by that of 1930, was to sweep away or enable the Dominions to sweep away every sign of inferiority and to stand out as equal sovereignties. The Conference of 1926 declared that Great Britain and the Dominions were "autonomous communities within the British Empire, equal in status, in no way subordinate one to another in any aspect of their domestic or external affairs, though united by a common allegiance to the Crown and freely associated as members of the British Commonwealth of Nations." It was a programme then, not a statement of legal fact, but the Statute of 1931 made the way open to convert it

<sup>1</sup> Keith, *The Sovereignty of the British Dominions* (1929); *Constitutional Law of the British Dominions* (1933); *The Governments of the British Empire* (1935).

into fact, so far as domestic affairs were concerned. As regards external affairs, the necessary transformation could be effected through the royal prerogative in the sphere of foreign affairs. Mr Bagehot's contemporaries wondered when the Queen by a statutory act abolished army purchase, but infinitely more amazing constitutionally is the fact that the unity of the Crown in foreign relations was vitally modified by mere prerogative act without even a communication to Parliament. It is indeed a striking comment on the manner in which interest in the House of Commons has passed to industrial and economic issues and the decline of political intelligence in the upper chamber.

#### (1) Internal Sovereignty

The complete sovereignty in internal matters of the Dominions involves essentially the disappearance of the overriding power of Imperial legislation. This was contemporary with the foundation of the Empire; it was reasserted but made more definite in 1865 by the Colonial Laws Validity Act. The Statute of Westminster swept it away, and thus every Dominion legislature may if so desired exercise fully sovereign legislative power. There remained only one restriction on that power when repugnancy to Imperial legislation was abolished, that of territorial limitation. A Dominion, it was held, must be assumed to have power to legislate only for its territorial area and territorial waters, whereas the Imperial Parliament could legislate for any British territory, for British subjects anywhere, and if it thought fit even for foreign

subjects in connection with matters affecting British subjects or territory. Thus under a British Act bigamy committed in the United States might be punished in the case of a British peer, but not under a New South Wales Act. The restriction was simply removed by the Statute, leaving it possible to have vehement conflicts of law. No doubt power might have been restricted to Dominion nationals or residents, but at least the sovereignty of the Dominions is made clear.

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The issue remained whether the Imperial Parliament claimed a parallel sovereignty. The Irish Free State asked that the power of Imperial legislation should be formally renounced as in 1783, when the stress of circumstances compelled the laying aside of any claim to legislate for Ireland. But this was not desired by the Canadian government, Australia or New Zealand and a compromise was reached. It was enacted that no Act of the Imperial Parliament enacted after the Statute was to be deemed to extend to a Dominion as part of the law thereof unless it was expressly declared in the Act that the Dominion had requested and consented to the enactment thereof. This means that as a binding constitutional rule it is laid down that British legislation for a Dominion must take place at its request and consent. It is not a new rule. It was the existence of this constitutional usage which resulted in the Joint Select Committee, which considered the request of the State of Western Australia to be allowed to secede from the Commonwealth, ruling that the petition could not even be received, as it prayed Parliament to do what constitutionally it could not do, despite its legal power.

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It is true that the failure to renounce the right to legislate was resented in the Free State, and in the Union of South Africa the issue has been met by enacting in the Status of the Union Act, 1934, that no Imperial Act shall extend to the Union unless extended by a Union Act. But the views of Canada were decisively in favour of retention of the supreme power, for as yet Canadian constitutional change in essentials depends on British legislation. The risk of British legislation except at express request is wholly fantastic, and the power still remains as a reminder of the unity still existing in the Empire in the existence of a body which on due request could legislate for the whole of the Commonwealth.

These provisions of the Statute are important also in that they open up the way for each Dominion to abolish any right of the Crown to disallow Dominion Acts or to withhold assent from reserved Bills. Under the power accorded the Union has abolished the power of disallowance, as well as of reservation, save in the solitary case of a Bill to take away the right of appeal to the Privy Council. The power to disallow has never existed in the Irish Free State; that to reserve has been abolished. The Statute itself sweeps away all restrictions on freedom of legislation on merchant shipping and Admiralty jurisdiction. Even where power to reserve or disallow exists, it would be used only now on the advice of the Dominion ministry, so that all Imperial control is gone.

The appeal to the Privy Council is thus liable to abolition at will, and the Irish Free State has abolished it in all cases and the Dominion of Canada in criminal causes. In the case of the Union it is virtually dis-

used. In the case of the Commonwealth of Australia all important constitutional cases raising the questions of the rights *inter se* of State and Commonwealth fall to be decided by the High Court without appeal, save by leave of that body—now never given—to the Privy Council.

Sacrifice of authority in these matters meant naturally little to the king, as his functions in regard to the issues were practically formal and were carried out on ministerial advice without probability of the issues inviting individual action. But the change of practice as regards the appointment of the Governor-General naturally much affected the king personally. Under the old regime the king certainly was advised regarding these appointments, but he had the right of discussion and suggestion and the Governor-General was brought into personal contact with him before his departure for his duties, and could learn the king's wishes as regards matters of ceremonial. In the case of the Irish Free State in 1922 the rule was departed from. A well-known peer had been provisionally selected for office, but the Free State government objected and insisted incorrectly that it had the right of choice. It can hardly have been acceptable to the king to have to yield the point on ministerial advice, though the selection of Mr Tim Healy probably softened the blow. On the next appointment the Free State equally had its own way. In 1930 the Commonwealth insisted on similar treatment, and the king had to sanction the appointment of the Chief Justice whose elevation was desired by the Labour government in order to secure the appointment of a Labour supporter to the bench. Finally in



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1932 the Irish Free State inflicted on the king the crowning discourtesy of requiring him to remove from office the Governor-General, whose one fault was that he had remonstrated with ministers for their discourtesy in leaving a reception at the French legation because he appeared there as representative of the Crown. This must have been a very painful sacrifice for the king to make. That he agreed so to act reflects the highest credit on his courage and temper. To have refused would have enabled the government to appeal to the country against royal interference in Irish affairs, and Mr de Valera realised fully how effective that cry would have been, so that the royal acceptance must have come as a real disappointment.<sup>1</sup> The result, however, was the continuous debasement of the office of Governor-General. The new appointee refused to cross over to London to kiss hands, retired to a villa in the suburbs, and agreed to pay back £8000 of his salary and to perform no function other than that of signing Bills when so instructed. His only consolation for this humiliation was an assurance that the Free State appreciated the sacrifice thus being made in the struggle to secure the elimination of the office of Governor-General from the constitution. The government of Mr Cosgrave had already severed all connection between the Crown and the public service, the armed forces, the judiciary, the coinage, and the stamps.

It will be seen, therefore, that where the Statute of Westminster is operative the autonomy of a

<sup>1</sup> Keith, *Letters on Imperial Relations*, 1916-1935, pp. 129, 144, 159. The abolition of the office is to be included in the revision of the Constitution in 1936-7.

Dominion may be complete. This applies essentially to the Irish Free State and the Union of South Africa. The latter has secured an arrangement with the United Kingdom to remove the difficulty which was created by the intention to abolish the right of disallowance of Union Acts. Under the arrangements for admitting to the rank of trustee securities colonial stocks, the government concerned was obliged to express approval of the disallowance of any measure infringing the conditions on which the loan had been issued or impairing the security of the lender, and the Union had borrowed on these terms. In lieu it accepted an obligation to amend any legislation objected to by the British government and not deliberately to legislate on the matter without prior agreement with the British government. The pledge thus given is naturally not binding in law, and, if ever a proposal for it to be acted on was made, serious difficulty in redeeming it might arise.<sup>1</sup> The other Dominions have agreed to let the right of disallowance stand unaltered in this regard, and the king could still be advised by the British government to disallow a Dominion Act if it offended against the system laid down.

Canada is in a special position. Her constitution is federal, unlike those of the Free State and the Union, and amendment has always, in essentials affecting the relations of province and federation, rested with the Imperial Parliament. Hence the Statute forbids alteration of the constitution by either federation of provinces.

In the case of the Commonwealth of Australia and

<sup>1</sup> Keith, *Letters on Imperial Relations*, 1916-1935, pp. 170-3.

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New Zealand also power to alter their constitutions is not increased by the Statute, which retains the existing position. But in addition to these Dominions and Newfoundland is accorded the right to decide whether to apply the Statute in whole or in part, and so far this step has not been taken. Newfoundland, indeed, since 1934 has surrendered the exercise of her Dominion status under Imperial legislation enacted at the request of the Dominion because economic distress compelled recourse to British aid to avoid default, and above all to secure a government by experts in order to restore free from Parliamentary checks the shattered fabric of her economic system.

(2) *External Affairs*

At the beginning of the king's reign the diplomatic unity of the Empire was undivided. All foreign issues were dealt with by the British government through the Foreign Secretary, and the Dominions counted for international purposes in matter of form no more than colonies. Practically of course the matter was very different. The wishes of the Dominions were consulted on all issues affecting them particularly, as opposed to general questions of foreign policy, and in treaty negotiations affecting the Dominions Dominion representatives were regularly associated with British diplomatists, thus attesting imperial unity and due regard for Dominion interests.

But the Declaration of London awoke the Dominions from their placid content, and the Imperial Conference of 1911 admitted their right to be consulted on

general issues of foreign policy where time and conditions permitted, and some glimpse into the knowledge of the principles of British foreign policy was accorded to the Prime Ministers. In 1912 a formal step of great importance was taken which precluded the doctrine of the divisibility of the Crown. For the radio-telegraphy conference of that year the king issued full powers to British delegates, and separately to Dominion delegates in respect of their Dominions. The powers of the British delegates were expressed in general terms, but the grant of separate powers to the Dominions enabled them to stand out as distinct units in the negotiation and to ratify or not separately from the British ratification proper. A like procedure followed in 1913-14 for the conference on safety of life at sea.<sup>1</sup>

These precedents were of decisive value when on the conclusion of hostilities the making of peace had to be undertaken. In 1917-18 meetings of the chief statesmen of Britain and the Dominions had been held under the style of Imperial War Cabinet to determine war policy. They now turned to conclude peace. They might have agreed to be a single delegation for the Empire, but this would have destroyed the individuality of the Dominions, and so it was agreed to secure for each Dominion—save Newfoundland—distinct recognition as a party to the negotiations, while Dominion representatives could participate in the acts of the British Empire delegation. At the close the treaty of peace was signed for the British Empire generally by British plenipotentiaries, and by a representative for each Dominion in respect

<sup>1</sup> Keith, *War Government of the British Dominions*, pp. 147, 148.

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thereof, and also for India. Further the Treaty of Versailles was only ratified after each Dominion Parliament had approved. Moreover the Covenant of the League of Nations provided a permanent seat on the League Council for the Empire, but gave separate recognition to the four Dominions and India, with seats on the Assembly as well as those of the British Empire. The Dominions—with which India henceforth was associated in form—thus received some degree of international status.

This status was further marked by the agreement in 1920 to permit Canada to have a separate minister plenipotentiary of her own at Washington, though he was to work in close touch with the British Embassy and to act for the Ambassador in his absence. The arrangement became effective only in a modified form and for the Irish Free State. That Dominion was added to the list of Dominions in 1922 under the treaty of December 6, 1921, between Great Britain and Ireland. It thus had an unique origin, for it claimed to have been an independent state which accepted by treaty Dominion status on the model of Canada in lieu. The British government consistently maintained that there was no international status of Ireland before the treaty. But the Free State could and did claim that the right to a separate legation at Washington must be extended, and this was conceded. No longer, of course, was there any idea of the Irish minister acting for the Ambassador, and, though close contact was established between Embassy and legation, it was not the unity contemplated in the accord of 1920. The Free State also obtained, with British help, admission in 1923 to the League of Nations.

In the meantime Canada proceeded to further definition of the position. In 1923 it contended, in connection with the Halibut Fishery treaty with the United States, that a treaty affecting one Dominion only should be signed by a Dominion minister alone, and this claim was conceded by the Imperial Conference of 1923. In 1924 it asserted that, if a treaty were negotiated without the aid of Dominion delegates, as was that of Lausanne in 1923, Canada, though bound by a British ratification, would have full right to disclaim any active liability to defend its terms by force of arms, as might be necessary under that treaty in case of a violation of its provisions regarding the regime of the Straits.

The situation urgently demanded clarification, and it was made more complex by the conclusion of the Locarno pact in 1925. It was essential in the public interest to secure peace in Europe, and the Dominions could not effectively be consulted, nor would they be willing to take share in the serious obligations of the compact. Hence it was necessary to exclude them, unless they desired to undertake active obligation in case of war being necessary to vindicate the terms of the pact. Clearly the situation raised definitely the limits of Dominion obligation, and the solution was sought at the Imperial Conference of 1926. That Conference achieved conclusions which were re-affirmed without real change at the Conference of 1930.

Under these resolutions each unit of the Empire or Commonwealth is so far distinct from the others that it cannot be exposed to any active obligation in foreign affairs except by agreements duly negotiated by a

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representative appointed by that unit, and ratified at the desire of that unit. What then of obligations of such a character that they must be accepted for the whole Commonwealth to have any meaning? The Conference recognised that such obligations might exist, but left them to be determined by discussion and agreement.

Each unit may conduct its foreign affairs by its own plenipotentiaries, and therefore may send ministers to foreign states and receive them thence at discretion. Failing the existence of such representatives it is entitled to the good offices of British representatives, and under the resolution of 1930 direct communications with such representatives in matters not of distinct political character are authorised as a basis for action. Of this permission Australia and New Zealand make no use, but Canada has legations at Washington, Tokyo, and Paris, and receives ministers from these countries at Ottawa. The Irish Free State is represented at the Vatican, Washington, Paris, Berlin, and Brussels; the Union at Washington, Paris, Berlin, Brussels, Stockholm, Lisbon, and Rome. These countries normally reciprocate.

In treaty-making each unit is expected to inform the others of its proposals, so that they may propose to join or offer objections. The obligation applies also to exchange of information on foreign affairs. In fact the British government supplies full information to the Dominions both on foreign and other imperial affairs. This is facilitated by the presence of Dominion High Commissioners in London and of High Commissioners for the United Kingdom in Canada, Australia, and the Union, for in these countries

the Governor-General represents only the king, not also the British government as in New Zealand. Chapter  
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Treaties in the strict sense of the word are concluded in the name of the king by plenipotentiaries holding full powers from the king, and are ratified by the king. But governmental agreements may be made in such form as pleases each government and be ratified by the Governor-General in Council if ratification is necessary. This is the form adopted as regards draft conventions agreed to under the procedure of the Labour clauses of the treaties of peace.

Treaties involve, it will be seen, royal intervention. Up to 1931 that included the formal action of the Foreign Secretary in submitting the sign manual warrant for the issue of full powers and instruments of ratification under the Great Seal. In that year the king accepted the advice of his Irish Free State government that there should be struck a new great seal to be used for the Free State and a signet, and henceforth all these acts were performed on direct Free State advice without any British intervention. It is scarcely credible, though true, that it was left to the Irish government to notify this fundamental change and that the Dominions Secretary was content to refer to the Free State notification. The personal decision of the king to accept direct Irish advice is of great historical importance. It rested, of course, ultimately on the responsibility of the British government of the day, but it greatly altered the position of the king in the Commonwealth. The Union of South Africa naturally followed suit, but it went much further. In the Royal Executive Functions and Seals Act, 1934, it not merely arranged for the striking



of a great seal and a signet, but it authorised the use of the seals and the signing of any instrument whatever for the Crown by the Governor-General on the authority of the Cabinet if for any reason the king's signature cannot be obtained, or to obtain it would frustrate the object or unduly retard the despatch of public business. The king's refusal to sign would in law afford a justification for ignoring him and acting through the Governor-General, who, as we have seen, is the nominee of the government and who may be removed at their pleasure from office.<sup>1</sup>

### 5. *The Divisibility of the Crown*

It is claimed by General Hertzog, representing the Union of South Africa, that the Status of the Union Act, 1934, makes clear the divisibility of the Crown, which he is pledged to maintain by his compact with his own associates. The question is far from easy to decide and the Act throws little light upon it. So far it seems that the only relevant section is s. 5, which defines the terms "heirs and successors" in the South Africa Act, 1909, as meaning His Majesty's heirs and successors in the sovereignty of the United Kingdom of Great Britain and Ireland as determined by the laws relating to the succession to the Crown of the United Kingdom and Ireland. The point of this enactment is obscure, but it seems to be inserted to show that the succession in the Union is to a distinct Union throne, limited, however, by the Union Act to descend in the same line as the British Crown. Nor is there any doubt that General Hertzog holds that the

<sup>1</sup> Keith, *Letters on Imperial Relations*, 1916-1935, pp. 159-68.

Union and the British Crowns are distinct things. How far that view is held outside the Union is uncertain ; the Irish Free State claims the right to attain republican status, and therefore is not interested in asserting her right to be regarded a separate kingdom, though by history such a right seems to be certainly strong.

In external relations the issue was envisaged, but not effectively disposed of, by the Imperial Conference of 1926, and its settlement is difficult. The British view is, however, quite plain. It is held that there are limits to divisibility, reached in the Locarno pact, for the Dominions, though willing to approve it *ex post facto*, failed to accept its obligation. Hence the British government, when the negotiations for the Kellogg pact were brought forward in 1928, was determined not to accept the obligation to renounce war as an instrument of national policy, unless the same obligation was accepted by all the Dominions, as well as India, whose foreign relations remain and will long remain in British control. The United States accepted this view and the treaty was duly signed for each Dominion and ratified for each.

The British government also asserted that unity was necessary in 1922 in respect of naval limitation, and again in 1930, and in both cases the terms adopted applied to the whole Commonwealth. It is hardly necessary to note that foreign powers are vitally interested in this doctrine ; they could not be expected to accept limitation if parts of the British Empire might engage in additional construction. So in 1936 the same procedure was proposed, but the Irish Free State protested against the idea of being ranked with the rest of the Commonwealth if any limitation were

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agreed upon, and in the ultimate issue, though the treaty contained no quantitative limitation, the Free State and the Union of South Africa both refused to sign.<sup>1</sup> As it was stated that neither had nor proposed to build a navy, failure to sign may be ascribed to the uselessness of such a gesture, but in effect in both cases it implied an insistence on the divisibility of the Crown. On the other hand, the British government in its accords with Germany and the United States of 1935-6 accepted the fixing of ratios of construction for the whole Commonwealth, thus treating any Union or Irish tonnage as British Commonwealth tonnage. It is, of course, clear that, if either unit started construction, the British government might be embarrassed, since its own plans of construction might have to be revised in order not to authorise German or American additions to constructional activity.

The question may further be illustrated by the attitude of the Irish Free State towards the reservation made by the United Kingdom in dealing with the Kellogg pact. It was made clear that under the right of self-defence Britain included the right to ward off any attack on Iraq or Egypt, but the Free State accepted the pact without that gloss on its terms. The issue was unimportant, even at the time, and of course the attitude of the United States to Italian violation of the pact has reduced the instrument to worthless verbiage. In the same spirit the Free State, when accepting the optional clause of the Statute of the Permanent Court of International Justice in 1929, insisted against the rest of the Empire in including in its acceptance inter-imperial disputes,

<sup>1</sup> Parl. Paper, Cmd. 5136.

and in 1931 it reiterated this view when accepting the Act of 1928 for the Pacific Settlement of International Disputes. But obviously the declaration is of no practical importance as other parts of the Empire exclude such disputes, and the incident merely serves to show the Irish belief in the distinct character of the State. Clearly variation in a matter of this sort is of symbolic importance only.

#### 6. *The Character of Inter-Imperial Relations as International or Municipal*

A vital point which bears on the divisibility of the Crown is raised by the contention of the Irish Free State that the relations of the units of the Empire *inter se* are international, not constitutional, and are governed by international, not municipal law. The negotiators for the treaty of 1921, as has been seen, endeavoured to obtain recognition of that pact as an international treaty, but in vain. They had equally in vain approached European governments and the United States in the desire to be admitted to be independent or at least belligerents.<sup>1</sup> The entry of the State into the League, however, raised once more the issue, for the State registered the treaty of 1921 under Article 18 of the League Covenant, only to find the British government prompt to deny that either the League Covenant or treaties concluded under League auspices applied between parts of the Empire.<sup>2</sup> The Free State repudiated the dictum and registered

<sup>1</sup> Cf. Mr de Valera's protest to the Pope in 1921 (Pakenham, *Peace by Ordeal*, p. 166).

<sup>2</sup> Keith, *Letters on Imperial Relations*, 1916-1935, pp. 52, 53.

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likewise the treaty of 1925. The treaties were duly published in the League collection, but the British caveat was also printed.

In 1926, however, the Imperial Conference, with the assent of the Free State, quite definitely ruled out this doctrine, though in an indirect manner. It laid it down that treaties should be concluded not in the names of states, as has been often done since the treaties of peace were so concluded, but in the name of the king, and that the result of this being done would be to make it clear that treaties did not apply between units of the Empire. It was stated that the legal committee of the Arms Traffic Conference in 1925 had affirmed this doctrine as a matter of recognised law. The statement perhaps goes beyond the text of 1925, but the Free State did not register the further treaty with the United Kingdom of 1929.

This, however, did not end the issue, for in 1929 the Free State, which had suggested in 1928 that the Kellogg pact should be deemed binding between the parts of the Commonwealth, insisted that inter-imperial disputes were properly dealt with by the Permanent Court of International Justice, and insisted against the rest of the Empire in accepting the authority of the Court to deal with such disputes. The Union of South Africa also did not dispute the power of the Court to deal with such affairs, but preferred to find a different tribunal. The issue once more arose in 1930, when the Imperial Conference discussed the question of an inter-imperial tribunal to deal with disputes. It is significant that compulsory reference to the tribunal even of disputes of a legal character was ruled out, and all that could be agreed on

was that, if a tribunal were invoked, it should be composed of members nationals of units of the Commonwealth. In 1931, in adhering to the Act of 1928 the same claim of the right of the Permanent Court to hear disputes was reasserted.

In 1932 the issue came to bitter debate, for Mr de Valera repudiated payment of the sums due to the British government in respect of land annuities, representing the balance due of the purchase price of Irish land by tenants under the scheme of 1903 and subsequent years.<sup>1</sup> His ground for repudiation was that the annuities had been surrendered under the Government of Ireland Act, 1920, and that the agreements recognising the liability to pay concluded in 1923 and 1926 had never been properly ratified by Parliament. He was willing to submit the issue to a court, but one member must be a foreigner, whereas the British government insisted that the tribunal should be composed of nationals of the Commonwealth. Rather inconsistently it argued that the agreement of 1926 did not need ratification, as under international law such accords were deemed binding without further arrangements. But the matter reached deadlock, and a war of tariffs ensued, which was, however, greatly modified by accords in 1935 and 1936 under which in order to obtain outlets for British coal the British government accepted Irish cattle, thus relieving Mr de Valera from the grave difficulties in which his policy had landed him.

The Union of South Africa necessarily, from its

<sup>1</sup> Keith, *Letters on Imperial Relations*, 1916-1935, pp. 116 f., 117 f., 131-3.

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adherence to the doctrine of the divisibility of the Crown, holds that inter-imperial agreements are international, and so registered with the League of Nations the Merchant Shipping Agreement of 1931 and accords with the Rhodesias. But the issue remains undecided. The British government has never in principle wavered, and neither Canada nor the Dominions in the Pacific have shown any desire to regard their relations with the mother country as regulated by international law. Even in point of form the Union has insisted on formal ratification of its agreements with the United Kingdom. The latter, however, has not included in its Treaty Series the commercial agreement with the Union of 1935, nor has the Union registered it.

### 7. *The Right of Neutrality*

If the parts of the Empire stand towards one another in the relations of international law, then unquestionably the right of neutrality follows, as is held by General Hertzog.<sup>1</sup> The declaration of war by the Crown would only affect that part of the Empire whose ministers advised the taking of such action; other parts would remain unaffected, and would be entitled to declare formally their neutrality in the war. Virtually this means that the Union can be neutral in a British war just as Hanover was able to be neutral in a British war, and Britain was not *ipso facto* involved in war because Hanover was

<sup>1</sup> Keith, *Letters on Imperial Relations*, 1916-1935, pp. 76-8, 79, 157 ff., 161 f., 166 f., 169, 350 f.; *Journal of Comparative Legislation*, xvii. 273, 274.

engaged. In accordance with his view, General Hertzog, as we have seen, has taken steps to provide under the Royal Executive Functions and Seals Act, 1934, full authority to the Governor-General to issue a proclamation in place of the king. This procedure has every ground of propriety to commend it. After all, His Majesty is deeply concerned with the welfare of the United Kingdom, where he is in daily touch with his subjects, and it would be a most invidious task for the king to issue for the Union a proclamation of neutrality in a British war, which we may safely assume would be one undertaken for national ideals of the highest kind. Hence it would be right that dissociation from the Empire should be announced under the authority of the mouthpiece of the Dominion government.

Two questions, of course, arise on this theory. Is the right of neutrality possible under the constitution of the Empire? Would a declaration of neutrality entitle the Union to neutral rights at the hands of other powers? To the first question the only answer is that the preponderant weight of Empire opinion denies the right of neutrality. It would insist on the tie of common allegiance to the Crown and the voluntary association in the British Commonwealth, together with the agreement to exchange information on foreign affairs, as negating the right to remain neutral. It would stress the fact that Hanover and Britain were held by quite different titles, and that there was no common allegiance to the king. It is true that Hanoverians were deemed British subjects, but not *vice versa*, and the source of allegiance was quite different; moreover allegiance terminated on



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the accession of a female sovereign to the British Crown and was always precarious.

To the second question there is available a very definite answer. The rights of neutrality can be claimed only by a power which is able and willing to perform the duties of a neutral. In practice, of course, Union neutrality might be respected by a foreign power without the Union having the right to claim respect, but the issue is one of right. Now the Union is bound under the accord of 1921,<sup>1</sup> under which the British government on withdrawing its garrison handed over valuable lands and other property to the Union for defence purposes, to afford military aid to secure Simonstown, the headquarters of the British naval force on the South Africa station, against attack by an enemy force from land. The obligation is not denied, but it is contended by General Hertzog that it is compatible with claiming the rights of a neutral. But this represents a wholly obsolete conception of neutrality. It is perfectly true that in the eighteenth century the doctrine prevailed that help given by one power to another under a treaty existing before war arose was not a breach of neutrality if the help given conformed to the terms of the antecedent treaty and did not go beyond it, and Sweden acquiesced in this principle. In the same spirit the British government asserted in 1826 that it was legitimate to render aid to Portugal under the old alliance without incurring the reproach of unneutral action. But these contentions belong to an outworn conception of neutrality, and no modern jurist would admit their validity. It follows, there-

<sup>1</sup> Reaffirmed by Mr Pirow at London in June 1936.

fore, that the Union would be in the dilemma of having either to break a solemn engagement with Britain or render unneutral help. Chapter  
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In the Irish Free State the position is held by Mr de Valera that neutrality should be a right, but that respect for Irish neutrality would be ruled out by the obligation of the treaty of 1921 not merely to give facilities for coastal defence in time of peace, but also to increase these facilities as desired in time of war. In truth this is conclusive, for no foreign power could be expected to assent that the Free State should be available as a base of British operations and yet claim neutral rights. Hence Mr de Valera's insistent offer to guarantee that no use of Irish territory will be permitted to enemies of Britain in return for the waiver of these rights.

In any case, it may be held, a declaration of neutrality would virtually mean secession from the Commonwealth.

### 8. *The Right of Secession*

Formally the right of secession is demanded by the Irish Free State with the desire immediately to use it, by the Union of South Africa as a proof of the independent status of the Union and of the truth of the doctrine of the divisibility of the Crown. The issue has never led to any acceptance of General Hertzog's claim by the Imperial Conference, though admittedly he asked in 1926 and 1930 for recognition of his doctrine. In the case of the Irish Free State the British government has refused to answer the question whether it would apply economic or other measures

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of reprisal if a republic were declared, on the ground that such action is not contemplated as possible. In fact, of course, the Free State government is in a serious difficulty. If it declared a republic in the present area of the Free State, it would interpose an insurmountable barrier to reunion with the northern counties, and any government which so acted would be accused of acquiescence in partition and would become the immediate object of the deadly hostility of the Irish Republican Army. On the other hand, the declaration of a republic for the whole of Ireland would be a futile act of defiance. British forces are overwhelming in strength when employed in regular action against Free State forces, and therefore an Irish republic remains undeclared. But it must be remembered that the separation from the north has now an important economic side which may make for the independence of the south being asserted and the north abandoned. The economic policy of the Free State government has created many nascent industries which the restoration of free trade with the north would destroy. It may be, therefore, that the repugnance to partition may be removed by considerations of material gain which may outweigh sentiment.

In point of law the question of the right of secession is disputable.<sup>1</sup> The view of General Smuts immediately after the new status achieved by the Peace Conference was that the Union had not power to sever the connection with the Crown, for to such a Bill the royal assent could not properly be given. In

<sup>1</sup> Keith, *Letters on Imperial Relations*, 1916-1935, pp. 95-9, 121-5, 149 ff., 349.

accordance with this view is the evidence of the Statute of Westminster, 1931, for it recites in a preamble, "inasmuch as the Crown is the symbol of the free association of the members of the British Commonwealth of Nations, and as they are united by a common allegiance to the Crown, it would be in accord with the established constitutional position of all the members of the Commonwealth in relation to one another that any alteration in the law touching the succession to the throne or the royal style and titles shall hereafter require the assent as well of the Parliaments of all the Dominions as of the Parliament of the United Kingdom." *Prima facie* this seems clearly to negative secession by unilateral action and to render it necessary, if secession is to take place, for the whole of the Commonwealth to combine in common legislation. But it must be admitted, on the other hand, that General Hertzog, when he secured, in accordance with the decision of the Imperial Conference of 1929, the approval of both Houses of Parliament for the draft Statute, obtained a declaration that the preamble was not to affect the right of any Dominion to withdraw from the Commonwealth. The Statute takes no notice of this reservation, and its value, therefore, is dubious in the absence of similar views being held by other Dominions.

The Royal Executive Functions and Seals Act, 1934, however, does provide clearly the means for an assent to be given by a Governor-General to a Bill for secession, and there exists no power to disallow. No doubt it is open to argue, as General Smuts used to do, that the Governor-General could not constitutionally do so, but if he were chosen, as he would

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be, from General Hertzog's supporters, that would count for nothing. To a measure assented to the local Courts would doubtless give effect.

So also in the Irish Free State a Bill for a republic would easily receive the assent of the puppet Governor-General, but it is not absolutely certain if the Supreme Court as at present constituted should logically hold it valid, as in December 1934 they asserted that the treaty was the supreme law of the land,<sup>1</sup> and it of course gives only Dominion status of the Canadian type, and it is perfectly clear in law that the Canadian Parliament could not enact secession. But the knot could be cut by the replacement of the justices by avowed republicans, which could be effected easily, as the Senate has been abolished. Moreover the Privy Council<sup>2</sup> has declared that the legislature is no longer bound by the Constitution.

From another point of view the Free State has made a bid to effect separation without the risks of the formal declaration of a republic. The common allegiance to the Crown is an essential feature of the relations between the Dominions and the United Kingdom. If, then, that allegiance can be destroyed, a long step can be taken towards the creation of a republic. Hence in the Irish Nationality and Status of Aliens Act, 1935, provision was made for repealing the British legislation on nationality, and also the English common law so far as it might be in force in the State. There seems to be no doubt as to the validity of the Act in the State ; outside it comes into

<sup>1</sup> *State (Ryan and others) v. Lennon and others*, [1935] I. R. 170.

<sup>2</sup> *Moore v. Attorney-General for Irish Free State*, [1935] A. C. 484.

conflict with the Imperial legislation, and, even with full allowance for the power of the State to give its legislation extraterritorial effect, there is no reason to suppose that it is sufficient to negative British law. Thus an Irish citizen is not a British subject in the Free State, but outside he is both a British subject and an Irish citizen. He can thus enjoy both worlds ; where the Free State has no embassy, he can appeal to the British Embassy as a British subject, and where there is an Irish minister he can appeal to the minister as a citizen or to the Ambassador as a subject. It is clear that there are chances of conflict, where a man may be entitled to rights under two aspects, and the Irish law claims that overseas he should be regarded as a citizen only. But it remains for foreign powers to decide in what capacity it will regard any person, though the British government could intervene if any foreign country refused to recognise a citizen's claim made on the score that he was also a subject.<sup>1</sup>

It does not appear, however, that the Irish legislation is effective in destroying the bond between the citizens of the Free State and the nationals of the United Kingdom, or of Canada or the Union, or British subjects in Australia, New Zealand, India, etc. They are all united by reason of the common Crown, whether allegiance be a suitable term or not for the relationship under modern phraseology. So also, though double nationality is denounced by Dr Malan as the root of all South Africa's many evils, it may seriously be doubted if they would be removed by this panacea or if, on the destruction of British nationality, Union

<sup>1</sup> Keith, *Journal of Comparative Legislation*, xvii. 115-17.

nationals would not still be united to British subjects by a common Crown.<sup>1</sup>

We arrive, therefore, at the result that the most important and vital link of Empire is the person of the king and the Crown. Moreover the existence of the king solves effectively the question of the relationship between the parts of the Commonwealth. Were it not for the Crown it would become necessary to seek to formulate definitely the relations between the several parts. For that the time is assuredly far from ripe, and in these circumstances the possession of a point of unity is a vital necessity.

<sup>1</sup> Italy's aggression on Ethiopia and determination to retain South West Africa against German claims have led to the decline in some quarters in the Union of republicanism according to General J. C. Kemp, Minister of Lands (August 3, 1936). See Keith, *Letters on Current Imperial and International Problems, 1935-1936*, Part II, for discussion.

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